

ENTERED

October 29, 2024

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

VERTEX ENERGY, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 24-90507 (CML)

(Jointly Administered)

FINAL ORDER**(I) AUTHORIZING CONTINUATION
OF THE INTERMEDIATION CONTRACTS,
AS AMENDED, (II) AUTHORIZING THE
DEBTORS TO ENTER INTO AND PERFORM
POSTPETITION INTERMEDIATION TRANSACTIONS AND
POSTPETITION HEDGING TRANSACTIONS, (III) PROVIDING
SUPERPRIORITY ADMINISTRATIVE EXPENSE STATUS
AND LIENS IN RESPECT OF POSTPETITION INTERMEDIATION
TRANSACTIONS AND POSTPETITION HEDGING TRANSACTIONS,
(IV) GRANTING ADEQUATE PROTECTION TO THE INTERMEDIATION
PROVIDER, (V) PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE
STATUS IN RESPECT OF PURCHASER SUPPORT AGREEMENTS, (VI)
MODIFYING THE AUTOMATIC STAY, AND (VII) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of Vertex Refining Alabama, LLC (“Vertex Refining”), Vertex Renewables Alabama, LLC (“Vertex Renewables”) and its direct or indirect parent, Vertex Energy, Inc., (“Vertex Energy” and, together with Vertex Refining and Vertex Renewables, the “Refining Debtors” and, together with the other debtors and debtors in possession in the above-captioned chapter 11 cases, collectively, the “Debtors”) for entry of an interim order (the “Interim Order”) and a final order (the “Final Order”) (a) authorizing the continuation of

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/vertex>. The location of Debtor Vertex Energy, Inc.’s corporate headquarters and the Debtors’ service address in these chapter 11 cases is 1331 Gemini Street, Suite 250, Houston, Texas 77058.

² All defined terms shall have the meaning ascribed to them in the Motion, the Assurance Agreement (as defined below), or in **Exhibit 4** of this Final Order unless otherwise defined herein.



249050724102900000000010

prepetition intermediation transactions in accordance with the prepetition intermediation agreements, as supplemented, modified and amended and restated by the agreements and instruments becoming effective on the date of the Interim Order, including the Interim Order and this Final Order (such agreements and instruments, the “Post-Petition Intermediation Agreements” and, together with the prepetition intermediation agreements, the “Intermediation Contracts”),³ (b) authorizing the Refining Debtors to enter into the Post-Petition Intermediation Agreements and pay reasonable and documented fees and reimburse expenses thereunder as and in the amounts described therein, (c) authorizing Vertex Refining to obtain a priming, senior secured, superpriority, debtor-in-possession postpetition hedge facility (the “Hedge Facility”), and for each of the other Debtors that is an “eligible contract participant” (the “Participating Hedging Debtors”) to unconditionally guarantee Vertex Refining’s obligations under an ISDA Master Agreement entered into as of March 31, 2022, and as most recently amended on September 25, 2024 (the “Swap Agreement”), between Macquarie Bank Limited (the “Hedge Provider”) and Vertex Refining and any related documents and instruments delivered pursuant to or in connection therewith (collectively, and together with the Swap Agreement, the “Hedge Facility Documents”) and to enter into and perform post-petition hedging transaction thereunder (the “Hedging Transactions”), (d) authorizing the Refining Debtors to enter into and perform post-petition intermediation transactions, including, consistent with the prepetition intermediation transactions, transferring all right, title and interest in and to the crude oil and refined products that are subject to the intermediation transactions in accordance with the terms of the Intermediation Contracts, (e) providing superpriority administrative expense claims to Macquarie in respect of the

³ A schedule of the Intermediation Contracts (including, if applicable, as amended or amended and restated pursuant to the Assurance Agreement (as defined below)) is attached to this Final Order as **Schedule 1**.

intermediation transactions subject to the claim priority set forth in **Exhibit 3** of this Final Order;

(f) providing valid, enforceable, nonavoidable and fully perfected security interests and liens and back-up liens (including liens pursuant to sections 364(c)(2) and 364(c)(3) of the Bankruptcy Code and consensual priming liens pursuant to section 364(d) of the Bankruptcy Code on all Shared Collateral (as defined in **Exhibit 4** of this Final Order)) to Macquarie to secure all Intermediation Obligations, which liens shall be subject to the priorities set forth in **Exhibit 2** of this Final Order;

(g) providing consensual priming liens pursuant to section 364(d) of the Bankruptcy Code on all DIP Collateral (as defined in the DIP Order) (the “Hedging Liens”) of the Participating Hedging Debtors and, pursuant to section 364(c)(1) of the Bankruptcy Code, superpriority administrative expense status (the “Superpriority Hedging Claims”) subject to the claim priority set forth in **Exhibit 3** with respect to Vertex Refining’s and the other Participating Hedging Debtors’ obligations (the “Hedge Obligations”) under the Hedge Facility Documents in respect of the Hedging Transactions; (h) providing, pursuant to section 364(c)(1) of the Bankruptcy Code, superpriority administrative expense status (the “Shell Superpriority Claims”) with respect to Vertex Refining’s and Vertex Energy’s obligations under the Shell Support Agreement (as defined below), which is attached to the Interim Order as **Exhibit 5**, subject only to superpriority administrative claims granted in respect of any debtor in possession financing facility, including the DIP Facility, the Hedge Facility, continuation of the Prepetition Intermediation Facility on a postpetition basis and to the Carve Out as depicted in the claim priority chart set forth in **Exhibit 3**;

(i) modifying the automatic stay; and (j) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and

the Motion in this district is proper pursuant to 28 U.S.C. § 1408; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at hearings before this Court on September 25, 2024 (the "Interim Hearing") and on October 22, 2024 (the "Final Hearing," and, together with the Interim Hearing, the "Hearings"); and this Court having granted the Interim Order [Docket Nos. 54 and 72]; and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearings establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, THE COURT HEREBY FINDS THAT:

A. Prior to the Petition Date, Vertex Refining entered into the Supply and Offtake Agreement, dated as of April 1, 2022, by and among Vertex Refining and Macquarie Energy North America Trading, Inc. ("Macquarie") (as amended and restated, and together with the related ancillary agreements, the "Prepetition Intermediation Agreement") and intermediation transactions pursuant thereto. Prior to the Petition Date, pursuant to the Prepetition Intermediation Agreement, Vertex Refining sold to Macquarie its right, title and interest in and to volumes of Crude Oil and Products, and Macquarie from time to time purchased all right, title and interest in and to volumes of Crude Oil from the Permitted Supplier (as defined in the Prepetition Intermediation Agreement) or other third party suppliers, in each case stored at the Crude Storage Tanks and Included Storage Locations (each as defined in the Prepetition Intermediation Agreement), as applicable (the "Intermediation Title Property"), with Macquarie retaining the

option, each month, in its sole discretion, to reject purchasing the forecasted supply of Crude Oil from third parties. Moreover, pursuant to the Prepetition Intermediation Agreement, the Lien Documents and the Independent Amount Letter (each as defined in the Prepetition Intermediation Agreement, and, collectively, the “Prepetition SOA Security Agreements”), Vertex Refining granted liens and security interests in certain collateral, including back-up liens over the Intermediation Title Property and provided cash collateral to Macquarie on a title transfer basis (such collateral, the “SOA Prepetition Collateral” and such liens, the “SOA Prepetition Liens”) to secure Vertex Refining’s obligations to Macquarie under the Prepetition Intermediation Agreement. Continuing intermediation activities, and the conducting of business pursuant to the terms of the Intermediation Contracts, is necessary to the Refining Debtors’ ability to engage in regular business operations.

B. The Refining Debtors have entered into the Assurance and Amendment and Restatement Agreement in the form annexed as **Exhibit 1** to the Interim Order (the “Assurance Agreement”) with Macquarie for the purpose of, among other things, obtaining Macquarie’s agreement to continue intermediation activities under the Intermediation Contracts after the Petition Date in a manner that affords the Refining Debtors, in each case subject to the terms and conditions set forth in the Intermediation Contracts, a committed source of intermediation during the term of the Post-Petition Intermediation Agreements and additional optionality regarding potential sources of third party Crude Oil and other feedstocks supply, in exchange for the fees and additional credit enhancements and protections set forth therein, in the Interim Order and in this Final Order. Pursuant to the terms of the Assurance Agreement, each of the Intermediation Agreement, the Storage Facilities Agreement, the Fee Letter and the Independent Amount Letter have been amended and restated on the terms set out in the Assurance Agreement (as so amended

and restated, respectively, the “Post-Petition Intermediation Agreement,” the “Post-Petition Storage Facilities Agreement,” the “Post-Petition Fee Letter” and the “Post-Petition Independent Amount Letter” and, collectively, together with the Assurance Agreement, the “Post-Petition Documents”).

C. The Assurance Agreement provides, among other things, the parameters under which Macquarie has agreed to continue its relationships with the Refining Debtors under the Intermediation Contracts following the Petition Date for the period and on the terms described therein. The Assurance Agreement further indicates the Refining Debtors’ desire and intent to conduct post-petition intermediation activities in the ordinary course of business and grant appropriate credit support to Macquarie, including, without limitation, the affirmation of guarantees given by Vertex Refining and Vertex Energy in respect of certain guaranteed obligations of Vertex Renewables.

D. The Refining Debtors are willing to enter into the Assurance Agreement and grant certain protections to Macquarie because the Intermediation Contracts are integral to the on-going and future success of the Refining Debtors’ operations and maintaining the value of the Refining Debtors’ estates.

E. Absent timely entry of this Final Order, Macquarie would assert and exercise its contractual rights to liquidate or terminate the Prepetition Intermediation Agreement pursuant to the Assurance Agreement, the Prepetition Intermediation Agreement, and sections 556, 560 and/or 561 of the Bankruptcy Code, as the case may be.

F. Cash collateral provided by Vertex Refining to Macquarie prior to the Petition Date to secure obligations owing to Macquarie in connection with the Intermediation Contracts: (x) represent the then current Independent Amount (as defined in the Independent Amount Letter)

transferred to Macquarie by Vertex Refining in accordance with the terms of the Independent Amount Letter, or (y) are identifiable and constitute traceable proceeds of Intermediation Facility Priority Collateral (as defined in **Exhibit 4**) or the Intermediation Title Property (including the cash proceeds provided under Section 2.01(a)(ii) of the Prepetition SOA Security Agreements) and which continues to constitute Intermediation Facility Priority Collateral.

G. Macquarie would not agree to maintain existing positions, continue intermediation activities, or engage in new intermediation activities solely on the basis of an unsecured debt allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense pursuant to section 364(a) or (b) of the Bankruptcy Code.

H. As a result, each of Vertex Refining, Vertex Energy and Vertex Renewables, as applicable, seeks to provide to Macquarie: (1) superpriority administrative expense status pursuant to section 364(c)(1) of the Bankruptcy Code with respect to all of its obligations under Intermediation Contracts (whether arising prepetition or post-petition and including the Intermediation Obligations); and (2) the property interests, security interests and liens described therein and herein consistent with **Exhibit 2**, to secure the prompt and complete payment of all amounts due or that may become due by it, and the performance of all covenants and obligations to be performed by it, under the Intermediation Contracts and all outstanding transactions thereunder (collectively, the “Intermediation Obligations”), whether arising prepetition or post-petition, to protect Macquarie from the risk of nonperformance.

I. The Hedge Facility requires Vertex Refining to enter into calendar month crack spread hedges with respect to approximately one-third of its expected Crude Oil throughput (or such lesser amount as may be agreed by the Hedge Provider and the Participating Hedging Debtors) during the pendency of the Chapter 11 Cases. Vertex Refining’s compliance with this

hedging mandate is critical to enable the Participating Hedging Debtors to manage their liquidity during the pendency of the Chapter 11 Cases given the funding available under the DIP Facility and, in turn, to Macquarie's willingness to continue intermediation activities under the Intermediation Contracts after the Petition Date. Without protection from fluctuations in the price spread between crude oil and refined products afforded by the Hedge Facility, the Debtors' business and estates would suffer immediate and irreparable harm, including, without limitation, a cessation of the intermediation activities and, potentially, substantially all of their operations. The financial accommodation provided to the Participating Hedging Debtors under the Hedge Facility is necessary and vital to the preservation and maintenance of the going concern values of the Debtors and to a successful reorganization of the Debtors.

J. Based upon the pleadings and proceedings of record in the Chapter 11 Cases, the Debtors are unable to obtain crack spread hedging other than from the Hedge Provider on terms more favorable than under the Hedge Facility and the Hedge Facility Documents and are not able to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code. The Debtors are also unable to obtain secured credit allowable under sections 364(c)(1), 364(c)(2), 364(c)(3), and 364(d)(1) of the Bankruptcy Code to support hedging activities without the Participating Hedging Debtors' granting to the Hedge Provider, subject to the Carve Out, (a) the Superpriority Hedging Claims and (b) the Hedging Liens in the Hedging Participants' Collateral (as defined below), in each case under the terms and conditions set forth in the Interim Order, this Final Order and the Hedge Facility Documents.

K. Each of the Participating Hedging Debtors (which include Vertex Refining and each of the Debtors that is a "Qualified ECP Guarantor" as defined in the Pre-Petition Loan Facility) seek to provide to the Hedge Provider: (1) superpriority administrative expense status

pursuant to section 364(c)(1) of the Bankruptcy Code with respect to the Hedge Obligations; and (2) the security interests and liens described in the Hedge Facility Documents consistent with **Exhibit 2**, to secure the Hedge Obligations under the Hedge Facility and to protect the Hedge Provider from the risk of the Participating Hedging Debtors' nonperformance.

L. Each of the DIP Lenders and the Pre-Petition Term Loan Secured Parties have consented, or are deemed to have consented, pursuant to the Prepetition Intercreditor Agreements, as applicable, to the hedging arrangements contemplated by this Final Order and the Hedge Facility Documents, including with respect to the claim and lien priority afforded therein and by this Final Order, and such consent is binding on all of the DIP Lenders and the Pre-Petition Term Loan Secured Parties.

M. The Hedge Provider agreed to provide financial accommodation in the form of the hedging arrangements to the Debtors, but solely on the terms and conditions set forth in the Interim Order and the Hedge Facility Documents. After considering all of their alternatives, the Debtors have concluded, in an exercise of their sound business judgment, that the Hedge Facility provided by the Hedge Provider represents the best hedging program presently available to the Debtors.

N. The transactions contemplated by the Intermediation Contracts (as amended and/or amended and restated by the Assurance Agreement and the other Post-Petition Documents) and the Hedge Facility are necessary to preserve and maximize the value of the Refining Debtors' estates.

O. The terms of each of the Intermediation Contracts, including the Assurance Agreement, and each of the Post-Petition Documents, and of the Hedge Facility Documents, are fair, reasonable, and adequate given that the Refining Debtors are in chapter 11 and their current financial condition.

P. The relief requested in the Motion is necessary, essential and appropriate for the continuation of the Refining Debtors' operations.

Q. The Assurance Agreement and the other Post-Petition Documents were negotiated in good faith and at arm's length between the Refining Debtors and Macquarie, and any credit extended pursuant to the Assurance Agreement or in connection with intermediation transactions by Macquarie is deemed to have been extended or made in good faith within the meaning of section 364(e) of the Bankruptcy Code.

R. The Hedge Facility was negotiated in good faith and at arm's length between the Participating Hedging Debtors and the Hedge Provider, and any credit extended pursuant to the Hedge Facility or in connection with Hedging Transactions by the Hedge Provider is deemed to have been extended or made in good faith within the meaning of section 364(e) of the Bankruptcy Code.

S. Vertex Refining and Shell (as defined below) have negotiated in good faith, at arm's length, the terms of that certain Support Agreement, attached hereto as **Exhibit 5** (the "Shell Support Agreement") entered into as of September 24, 2024, by and among Vertex Refining, Shell Trading (US) Company ("STUSCO"), and Equilon Enterprises LLC d/b/a Shell Oil Products US (together with STUSCO, "Shell").

T. Absent timely entry of this Final Order, Shell has indicated that it would assert and exercise its contractual rights to liquidate or terminate the Shell Agreements (as defined herein) pursuant to the Shell Agreements and/or sections 556, 560 and/or 561 of the Bankruptcy Code, as the case may be.

U. Vertex Refining intends to continue performing its obligations under the Shell Agreements and the Tripartite Agreements as set forth herein or as otherwise agreed to by Vertex Refining and Shell.

V. At or before the Interim Hearing, each of the parties set forth below received notice of the Motion whether by telephone, email, telecopy, overnight delivery or by hand delivery: (i) the Office of the United States Trustee for Southern District of Texas (the “U.S. Trustee”), (ii) the holders of the thirty (30) largest unsecured claims against the Debtors on a consolidated basis, (iii) counsel to the DIP Agent, (iv) counsel to the DIP Lenders, (v) counsel to the Term Loan Agent,⁴ (vi) counsel to the Consenting Term Loan Lenders, (vii) Latham & Watkins LLP, as special counsel to the JS Lender under the DIP Loan Agreement and Prepetition Loan Agreement (each as defined in the DIP Order), (viii) counsel to Macquarie, (ix) counsel to the Hedge Provider, (x) Shell and its counsel, if any; (xi) the Internal Revenue Service, (xii) all parties known by the Debtors to hold or assert a lien on any asset of any Debtor, (xiii) all relevant state taxing authorities, and (xiv) all of the Debtors’ landlords, and owners and/or operators of premises at which any of the Debtors’ inventory and/or equipment is located, and owners and/or operators of premises at which any of the Debtors’ inventory and/or equipment is located, and notice of the entry of the Interim Order and of the Final Hearing on the Motion having been given in accordance with the Interim Order, and it appearing that no other or further notice need be provided; and the Court having found that it may enter a final order consistent with Article III of the United States Constitution; and the Court having reviewed the Motion; and the Hearings having been held by the Court; and the relief requested in the Motion being in the best interests of the Debtors, their

⁴ The “Term Loan Agent” is Cantor Fitzgerald Securities, as term loan agent to that certain Loan and Security Agreement, dated as of April 1, 2022, among the Parent, Vertex Refining, the other guarantors party thereto, the lenders party thereto (collectively, the “Term Loan Lenders”) and the Term Loan Agent, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

creditors, and their estates and all other parties in interest in the Chapter 11 Cases; and the Court having determined that the relief requested in the Motion is necessary to avoid immediate and irreparable harm; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon the record made by the Debtors in the Motion, and at the Hearings and after due deliberation and sufficient cause appearing therefor;

It is now therefore FOUND, DETERMINED, ORDERED AND ADJUDGED THAT:

1. Notice of the Motion, the Interim Order, and this Final Order is adequate and proper under the circumstances of this case.

2. Good, adequate, and sufficient cause has been shown to justify the granting of the final relief, and the immediate entry of this Final Order.

3. The Assurance Agreement, including those terms relating to (i) Macquarie's agreement to delay the exercise of remedies and (ii) amendments to or restatements of the Prepetition Intermediation Agreement, is hereby approved, and the Refining Debtors are authorized to enter into the Assurance Agreement and perform their obligations thereunder and under the Intermediation Contracts and the Post-Petition Documents.

4. The Hedge Facility is hereby approved, and the Participating Hedging Debtors are authorized to enter into the Hedge Facility Documents and the Hedging Transactions and perform their obligations thereunder.

5. The Shell Support Agreement is hereby approved, and Vertex Refining and Vertex Energy are authorized to enter into the Shell Support Agreement and perform their obligations thereunder.

6. Each of Vertex Refining and Vertex Energy intends to, and is hereby authorized to, perform under those certain agreements as specified in Annex 1 to the Shell Support Agreement regarding, among other things, the purchase and sale of crude oil and refined products (collectively, the “Shell Agreements”) and the Tripartite Agreements (as defined in the Shell Support Agreement) as set forth in the Shell Support Agreement and, without further order of the Court, shall be permitted to, among other things described in the Shell Support Agreement, (a) make all payments when due and in the ordinary course (other than termination payments, for which Shell may file any necessary claims, as appropriate) as may be required under the Shell Agreements and the Tripartite Agreements (unless expressly amended pursuant to the Shell Support Agreement or otherwise agreed in writing by Vertex Refining and Shell), (b) perform and pay all postpetition obligations under the Shell Agreements and the Tripartite Agreements in accordance with the same terms, conditions, elections and options applicable as of the Petition Date, and paid at the prices specified in the Shell Agreements and Tripartite Agreements, (c) to the extent the minimum liquidity compliance requirement under the DIP Loan Agreement is changed, provide to Shell notice of such change within twenty-four (24) hours of the change being approved by the DIP Lenders, and (d) pay the reasonable and documented fees and out-of-pocket expenses of Shell’s primary legal counsel incurred in connection with, or enforcement of, the Shell Support Agreement in the Chapter 11 Cases.

7. Shell agrees to continue performing under the Shell Agreements and the Tripartite Agreements and to refrain from exercising any Termination Rights (as defined in the Shell Support Agreement) so long as no Event of Default (as defined in the Shell Support Agreement) has occurred.

8. Shell shall be entitled to superpriority administrative claim status (the “Shell Superpriority Claims”) pursuant to section 364(c)(1) of the Bankruptcy Code for amounts owed by Vertex Refining and Vertex Energy, respectively, to Shell on account of postpetition transactions under the Shell Agreements and the Tripartite Agreements (including, if applicable and subject to the terms thereof, any actual reasonable and documented costs incurred postpetition by Shell for any accepted postpetition mandates or postpetition changes in prepetition elections under the Shell Agreements or the Tripartite Agreements by Vertex Refining and Vertex Energy, as applicable, subject to Shell’s duty to mitigate any such costs) subject and subordinate only to superpriority administrative claims granted in respect of any debtor-in-possession financing facility, such as the DIP Facility, the Hedge Facility, continuation of the Prepetition Intermediation Facility on a postpetition basis, and to the Carve Out.

9. Vertex Refining and the other Refining Debtors, as applicable, are hereby authorized (and Macquarie shall be entitled to rely upon such authorization) *nunc pro tunc* from the Petition Date to engage in intermediation activities without further order of the Court pursuant to the terms of the Intermediation Contracts as amended by the Assurance Agreement and the other Post-Petition Documents, both in connection with existing transactions and by entering into new transactions, including any and all terms relating to collateral, offsetting, netting and/or cross-netting (other than any such offsetting, netting, and/or cross-netting would violate the priorities set forth in **Exhibit 2**).

10. Vertex Refining and the other Refining Debtors, as applicable, are hereby authorized to perform all obligations arising under Intermediation Contracts (as amended by the Post-Petition Documents) whether arising prepetition or post-petition, including (i) the making of all payments when due, including payments in relation to prepetition deliveries (including the

purchase price thereof, any Ancillary Costs (as defined in the Intermediation Contracts) and related indemnity amounts), the monthly true-up payment relating to intermediation activities occurring before and after the Petition Date during the month of September, post-petition deliveries on account of existing positions, post-petition deliveries on account of post-petition intermediation activities, financial product payments, liquidated damages for failure to make or receive delivery and/or payments, and payment of fees (including working capital fees) and expenses (including professional fees), (ii) providing collateral in connection with existing positions, including with respect to prepetition or post-petition market movements, and (iii) providing collateral in connection with intermediation activities (whether prepetition or post-petition). The Intermediation Contracts shall not be rejected pursuant to section 365 of the Bankruptcy Code or otherwise.

11. Subject to the Carve Out, Macquarie is hereby granted an allowed superpriority administrative expense claim in accordance with Bankruptcy Code section 364(c)(1) (the “Intermediation Superpriority Claims”) against Vertex Refining and the other Refining Debtors, as applicable, with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, subject to the claim priority set forth in **Exhibit 3** for the obligations, liabilities and indebtedness, whether arising prepetition or post-petition, under or related to Intermediation Contracts, including any indemnification claims of Macquarie, in its capacity as intermediary, for losses and costs incurred in connection with the liquidation of collateral, which shall be paid and calculated under the terms set forth in the Intermediation Contracts subject to the priorities set forth in **Exhibit 3** of this Final Order.

12. Notwithstanding Macquarie’s right, title and interest in and to the Intermediation Title Property under the Intermediation Contracts, as security for the Intermediation Obligations,

Macquarie is hereby granted (effective upon the date of the Interim Order, without any further action by Vertex Refining and Vertex Energy, including the execution by it or the filing or recordation of security agreements, lockbox or control agreements, financing statements or any other instruments or otherwise), valid, enforceable, binding and fully perfected security interests in and liens upon (“SOA Post-Petition Liens” and, together with the SOA Prepetition Liens, the “Intermediation Facility Liens”) all present and after-acquired property constituting Intermediation Facility Priority Collateral (as defined in **Exhibit 4**) and Intermediation Title Property, and all present and after-acquired property constituting Shared Collateral (as defined in **Exhibit 4**) that is DIP Priority Collateral (as defined in **Exhibit 4**) (collectively, the “SOA Post-Petition Collateral” and, together with SOA Prepetition Collateral, the “SOA Collateral”), subject to the payment of the Carve Out, which Intermediation Facility Liens shall have the priorities set forth in **Exhibit 2** of this Final Order and shall consist of:

- (a) Pursuant to section 364(c)(3) of the Bankruptcy Code, a junior priority, perfected lien and security interest upon all of Vertex Refining’s and Vertex Energy’s right, title and interest in, to and under all Shared Collateral that is DIP Priority Collateral, whether now existing or hereafter acquired.
- (b) Pursuant to section 364(d)(1) of the Bankruptcy Code, valid, enforceable, binding, continuing, fully perfected, first priority senior priming liens upon and security interest in all of Vertex Refining’s and Vertex Energy’s right, title and interest in, to and under all Intermediation Facility Priority Collateral that is subject to the SOA Prepetition Liens; provided, however, that the liens granted by this subparagraph shall in each case be subject and subordinate to liens on the Pre-Petition Collateral (as defined in the DIP Order) (other than the SOA Prepetition Liens and the

Pre-Petition Liens) that (i) are valid, perfected, enforceable and nonavoidable as of the Petition Date or validly perfected subsequent to the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code, (b) under applicable law, are senior to, and have not been subordinated to, the SOA Prepetition Liens or the Pre-Petition Liens, and (c) are not subject to avoidance, reduction, disgorgement, counterclaim, surcharge, or subordination pursuant to the Bankruptcy Code applicable non-bankruptcy law (each, a “Permitted Priority Lien”),⁵ including Permitted Priority Liens on DIP Priority Collateral. The Intermediation Facility Liens shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code, (ii) any liens arising after the Petition Date, including without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board, or court for any liability of the Debtors, or (iii) any intercompany or affiliate liens of the Debtors.

13. Each of the Participating Hedging Debtors is hereby authorized to enter into the Hedge Facility with the Hedge Provider to assist the Debtors in managing their liquidity while these Chapter 11 Cases are pending and to perform all Hedge Obligations, including the making of all payments when due and providing collateral in respect of all Hedge Transactions. The obligations owing to the Hedge Provider from time to time under the Hedge Facility shall be secured by the relative priority of the Hedging Liens granted by the Participating Hedging Debtors

⁵ Nothing shall prejudice the rights of any party-in-interest including, but not limited to, the Debtors and Macquarie to challenge the validity, priority, enforceability, seniority, avoidability, perfection or extent of any such Permitted Priority Liens and/or similar security interests.

to the Hedge Provider pursuant to this Final Order as set forth in **Exhibit 2** attached to this Final Order; *provided*, for the avoidance of doubt, that each such Hedging Lien shall be subject and subordinate to the payment of the Carve Out (as defined in the DIP Order) in all respects.

14. Subject to the claim priority set forth in **Exhibit 3**, the Hedge Provider is hereby granted an allowed Superpriority Hedging Claim in accordance with Bankruptcy Code section 364(c)(1) against each Participating Hedging Debtor, on a joint and several basis, with priority in payment over any and all administrative expenses at any time existing or arising, of any kind or nature whatsoever, for the obligations, liabilities and indebtedness of such Participating Hedging Debtors, whether arising prepetition or post-petition, under or related to Hedge Facility.

15. As security for the Hedge Obligations, the Hedge Provider, is hereby granted (effective upon the date of the Interim Order, without any further action by the Hedge Provider, including the execution by the Debtors or the filing or recordation of security agreements, lockbox or control agreements, financing statements, or any other instruments or otherwise) valid, enforceable, binding, and fully perfected Hedging Liens upon all present and after-acquired property of the Participating Hedging Debtors of any nature whatsoever (including without limitation “Collateral”), and all cash and cash equivalents contained in any account maintained by any of the Debtors, and, subject to entry of a Final Order, all Avoidance Actions Proceeds (such term for purposes hereof having the meaning specified in the DIP Order) of the Participating Hedging Debtors or their estates (collectively with all rents, issues, products, offspring, proceeds and profits of any or all of the foregoing, but excluding “Excluded Property” as defined in the DIP Loan Agreement, the “Hedging Participants’ Collateral”), subject only to the payment of the Carve Out, which Hedging Liens shall have the priorities set forth in **Exhibit 3** and shall consist of:

(a) Pursuant to section 364(c)(2) of the Bankruptcy Code, a continuing, enforceable, first priority, fully-perfected lien and security interest upon all of the Participating Hedging Debtors' right, title and interest in, to, and under all Hedging Participants' Collateral that was not encumbered by a validly perfected, enforceable, and nonavoidable security interest or lien as of the Petition Date or a valid security interest perfected subsequent to the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code (collectively, the "Unencumbered Property"). Unencumbered Property shall also include the Avoidance Actions Proceeds.

(b) Pursuant to section 364(c)(3) of the Bankruptcy Code, a junior priority, perfected lien and security interest upon all of the Participating Hedging Debtors' right, title and interest in, to and under all Hedging Participants' Collateral (other than the Hedging Participants' Collateral described in Subparagraphs (a) or (c) of this Paragraph 15, as to which the liens and security interests in favor of the Hedge Provider will be as described in such Subparagraphs), whether now existing or hereafter acquired, that is subject to any (1) Permitted Priority Lien and (2) solely with respect to the Intermediation Facility Priority Collateral (other than the Business Interruption Insurance Proceeds), the Intermediation Facility Liens, in each case, that was validly perfected prior to the Petition Date, or is validly perfected subsequent to the Petition Date to the extent permitted by section 546(b) of the Bankruptcy Code, and is not subject to section 552(a) of the Bankruptcy Code.

(c) Pursuant to section 364(d)(1) of the Bankruptcy Code, valid, enforceable, binding, continuing, enforceable, fully perfected, first priority senior priming liens upon and security interest in all of the Participating Hedging Debtors' right, title and interest in,

to, and under all Hedging Participants' Collateral that is subject to the Pre-Petition Liens (as defined in the DIP Order); provided, however, that the liens granted by this subparagraph shall in each case be subject and subordinate to liens Permitted Priority Liens.

(d) The Hedging Liens shall not be subject or subordinate to (i) any lien or security interest that is avoided and preserved for the benefit of the Debtors and their estates under section 551 of the Bankruptcy Code, (ii) any liens arising after the Petition Date, including without limitation any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board, or court for any liability of the Debtors, or (iii) any intercompany or affiliate liens of the Debtors.

(e) The relative priority of the Hedging Liens granted to the Hedge Provider shall be as set forth in **Exhibit 2** attached to this Final Order, *provided, however*, that the Hedge Provider may only seek to recover from the Avoidance Action Proceeds (as defined in the DIP Order) in satisfaction of any outstanding Hedge Obligations solely to the extent that the Superpriority Hedging Claims have not been indefeasibly paid in full and all other sources of recovery with respect to such Superpriority Hedging Claims have been fully exhausted.

16. Upon entry of the Interim Order, each of the Intermediation Facility Liens and the Hedging Liens were deemed to be valid, perfected, enforceable, non-avoidable and effective by operation of law, and not subject to challenge as of the Petition Date, without the need for (x) filing any UCC-1 financing statements, security agreements, vehicle lien applications, filings with the U.S. Patent and Trademark Office, the United States Copyright Office, or the Library of Congress, state or federal notice, or any other similar instrument or document in any state or public record or

office, (y) taking possession or control of any collateral, or (z) further action of any kind (including execution of any security agreements, mortgages, financing statements, collateral agreements, collateral trust agreements, deposit account control agreements, blocked account control agreements, securities account control agreements, or other collateral documents and agreements). If Macquarie hereafter reasonably requests that Vertex Refining and Vertex Energy or the Hedge Provider hereafter reasonably requests that Vertex Refining, Vertex Energy or any other Participating Hedging Debtor, execute and deliver to it financing statements, security agreements, collateral assignments, or other instruments and documents considered by it to be reasonably necessary or desirable to further evidence the perfection of the Intermediation Facility Liens or the Hedging Liens, respectively, each of Vertex Refining, Vertex Energy and the Participating Hedging Debtors is hereby authorized to execute and deliver such financing statements, security agreements, collateral assignments, instruments, and documents, and each of Macquarie and the Hedge Provider is hereby authorized to file or record such documents in its discretion without seeking modification of the automatic stay under section 362 of the Bankruptcy Code, in which event all such documents shall be deemed to have been filed or recorded at the time and on the date of entry of the Interim Order.

17. As adequate protection and as security and assurance of Vertex Refining's and the other Refining Debtors', as applicable, obligations arising under the Intermediation Contracts, upon the entry of the Interim Order, Macquarie was granted valid, enforceable, unavoidable and fully perfected liens, replacement liens and security interests in all SOA Collateral (the "Intermediation Facility Adequate Protection Liens") to the extent of any diminution in SOA Prepetition Collateral value, which shall be subject to the Carve Out and the lien priorities set forth in **Exhibit 2**. The Intermediation Facility Adequate Protection Liens shall be deemed to be legal,

valid, binding, enforceable, perfected liens, not subject to subordination or avoidance, for all purposes in the Chapter 11 Cases. The Intermediation Facility Adequate Protection Liens were deemed to be perfected automatically upon the entry of the Interim Order, without the need for (x) filing any UCC-1 financing statement, state or federal notice, or other similar instrument or document in any state or public record or office, (y) taking possession or control of any collateral, or (z) further action of any kind (including entry into any security agreements, deposit account control agreements, blocked account control agreements, securities account control agreements, or similar agreements). Macquarie is hereby granted, subject to the claim priorities set forth in **Exhibit 3**, an allowed superpriority administrative expense claim (the “Pre-Petition Intermediation Facility Adequate Protection Claims”) as provided for in section 507(b) of the Bankruptcy Code against Vertex Refining and Vertex Energy with, except as set forth in this Final Order and the Final DIP Order, priority in payment over any and all administrative expenses of the kind specified or ordered pursuant to any other provision of the Bankruptcy Code.

18. The Debtors shall provide Macquarie and the Hedge Provider with the financial and other reporting as described in the DIP Loan Agreement and DIP Orders, including, without limitation, (w) the Initial Approved Budget (as defined in the DIP Order), (x) each fourth Thursday after the Petition Date, the Cashflow Forecast (as defined in the Post-Petition Intermediation Agreement); *provided, however*, Macquarie’s and the Hedge Provider’s approval rights with respect to any Cashflow Forecast shall be limited to its evaluation of the Debtors’ compliance with the Debtors’ minimum liquidity covenant and payments to be made to Macquarie and the Hedge Provider (as applicable) during the relevant budget period, (y) weekly variance reports and (z) end of day cash balances by no later than 10:00 a.m. (prevailing Central Time) on the following business day.

19. Under the circumstances and given that the adequate protection described in this Final Order is consistent with the Bankruptcy Code, including section 506(b) thereof, the Court finds that the adequate protection provided herein is reasonable and sufficient to protect the interests of Macquarie; *provided*, that Macquarie upon a material change in circumstances, may request further or different adequate protection, and the Refining Debtors or any other party may contest any such request and all rights with respect thereto are expressly reserved and preserved in all respects.

20. The Liens granted to the Hedge Provider and Macquarie hereby at all times, (w) as between the DIP Agent and Macquarie or the Hedge Provider, shall be subject to the priorities as set forth in Exhibit 2, (x) as between Macquarie and the Hedge Provider, shall be subject to the priorities set forth in Exhibit 2, (y) as between the Hedge Provider and Term Loan Agent, shall be subject to the priorities as set forth in Exhibit 2, and (z) as between Macquarie and the Term Loan Agent, shall be subject to the priorities as set forth in Exhibit 2 and, to the extent not inconsistent with such Exhibit 2, the terms of the Second Amended and Restated Intercreditor Agreement dated as of June 3, 2024, by and among the Term Loan Agent, Macquarie, in its capacity as Intermediation Facility Secured Party, Vertex Refining, in its individual capacity as a Grantor and the other acknowledging affiliates party thereto (the “Prepetition Intercreditor Agreement”). The Intermediation Obligations shall be deemed to be “Secured Obligations” for all purposes under the Prepetition Intercreditor Agreement, subject to the other terms and provisions of this Final Order. No provision of this Final Order will be deemed to waive, abridge or otherwise adversely modify the rights of the “Secured Parties” (as defined in the Prepetition Intercreditor Agreement as in effect on the Petition Date) under the Prepetition Intercreditor Agreement.

21. Without any further action by the Debtors or any other party and as a condition to the continuation of the Intermediation Contracts: (1) all of Vertex Refining's and the other Refining Debtors', as applicable, prepetition obligations under the Intermediation Contracts shall be converted into Intermediation Superpriority Claims; and (2) all of the Intermediation Obligations shall be secured by the Intermediation Facility Lien in the Shared Collateral.

22. Except with respect to payment of the Carve Out or as expressly set forth in **Exhibit 2** with respect to the Intermediation Facility Liens or as expressly set forth in **Exhibit 3** with respect to the Intermediation Superpriority Claims, the Intermediation Facility Liens and Intermediation Superpriority Claims: (i) shall not be made subject to or *pari passu* with (A) any lien, security interest or claim heretofore or hereinafter granted in these Chapter 11 Cases, or any successor cases, and shall be valid and enforceable against the Refining Debtors, their estates, any trustee or any other estate representative appointed or elected in these Chapter 11 Cases or any successor cases and/or upon the dismissal of any of these Chapter 11 Cases or any successor cases, (B) any lien that is avoided and preserved for the benefit of the Refining Debtors and their estates under section 551 of the Bankruptcy Code or otherwise, and (C) any intercompany or affiliate lien or claim; and (ii) shall not be subject to sections 506(c), 510, 549, 550, or 551 of the Bankruptcy Code.

23. Except with respect to payment of the Carve Out or as expressly set forth in **Exhibit 2** with respect to the Hedging Liens or as expressly set forth in **Exhibit 3** with respect to the Superpriority Hedging Claims, the Hedging Liens and the Superpriority Hedging Claims: (i) shall not be made subject to or *pari passu* with (A) any lien, security interest or claim heretofore or hereinafter granted in these Chapter 11 Cases, or any successor cases, and shall be valid and enforceable against the Participating Hedging Debtors, their estates, any trustee or any other estate

representative appointed or elected in these Chapter 11 Cases or any successor cases and/or upon the dismissal of any of these Chapter 11 Cases or any successor cases, (B) any lien that is avoided and preserved for the benefit of the Participating Hedging Debtors and their estates under section 551 of the Bankruptcy Code or otherwise, and (C) any intercompany or affiliate lien or claim; and (ii) shall not be subject to sections 506(c), 510, 549, 550 or 551 of the Bankruptcy Code.

24. Macquarie may net amounts and Intermediation Obligations against amounts and obligations with the Refining Debtors and vice versa; *provided* that any such offsetting, netting and/or cross-netting shall not violate the priorities set forth in **Exhibit 2**. In this regard, there shall be no distinction between transactions entered into prepetition and post-petition. To the extent necessary, the automatic stay of section 362 of the Bankruptcy Code is hereby modified to permit the exercise by Macquarie of all such netting rights; *provided* that any such offsetting, netting and/or cross-netting shall not violate the priorities set forth in **Exhibit 2**.

25. The Hedge Provider may net amounts and Hedge Obligations against amounts and obligations with the Participating Hedging Debtors and vice versa; *provided* that any such offsetting, netting and/or cross-netting shall not violate the priorities set forth in **Exhibit 2**. In this regard, there shall be no distinction between transactions entered into prepetition and post-petition. To the extent necessary, the automatic stay of section 362 of the Bankruptcy Code is hereby modified to permit the exercise by the Hedge Provider of all such netting rights; *provided* that any such offsetting, netting and/or cross-netting shall not violate the priorities set forth in **Exhibit 2**.

26. If any or all of the provisions of this Final Order are stayed, modified in a manner adverse to Macquarie or vacated, or this Final Order otherwise terminates, such stay, modification, vacation or termination will not affect (a) the validity or priority of any indebtedness, obligation or liability incurred by the Refining Debtors to Macquarie before the receipt of written notice by

Macquarie of the effective date of such stay, modification or vacation, (b) the validity, priority or enforceability of the security interests and netting and termination rights authorized or created hereby or pursuant to the Intermediation Contracts or any related documents, and (c) the rights of Macquarie to exercise remedies as set forth in the Intermediation Contracts or the Assurance Agreement as the case may be, and Macquarie shall be entitled to the benefits of the provisions of section 364(e) of the Bankruptcy Code.

27. If any or all of the provisions of this Final Order are stayed, modified in a manner adverse to the Hedge Provider or vacated, or this Final Order otherwise terminates, such stay, modification, vacation or termination will not affect (a) the validity or priority of any indebtedness, obligation or liability incurred by the Participating Hedging Debtors to the Hedge Provider before the receipt of written notice by the Hedge Provider of the effective date of such stay, modification or vacation, (b) the validity, priority or enforceability of the security interests and netting and termination rights authorized or created hereby or pursuant to the Hedge Facility or the Hedge Facility Documents, and (c) the rights of the Hedge Provider to exercise remedies as set forth in the Hedge Facility as the case may be, and the Hedge Provider shall be entitled to the benefits of the provisions of section 364(e) of the Bankruptcy Code.

28. To the extent that the value of SOA Collateral sold and/or pledged to or for the benefit of Macquarie exceeds the aggregate amount of obligations owing by Vertex Refining or the other Refining Debtors, as applicable, to Macquarie on account of existing positions (including amounts owing on account of market movements), such excess value shall secure all obligations owing by Vertex Refining to Macquarie on account of its intermediation activities pursuant to the terms of the Intermediation Contracts. To the extent that any SOA Collateral is insufficient to secure the Intermediation Obligations, and/or Vertex Refining is required to post collateral under

an Intermediation Contract, Vertex Refining and the other Refining Debtors, as applicable, individually and/or collectively are authorized to provide additional collateral to secure such obligations to Macquarie without further order of the Court; *provided*, that Vertex Refining and the other Refining Debtors shall not provide any such additional collateral (other than any Intermediation Facility Priority Collateral, or any Independent Amount Adjustment (as defined in the Post-Petition Independent Amount Letter) required to be transferred to Macquarie in accordance with the terms of the Post-Petition Independent Amount Letter) without the consent of the DIP Lenders. The consent of the DIP Lenders shall not be required for the payment of any Independent Amount Adjustment on the terms set out in the Post-Petition Independent Amount Letter, but the consent of the DIP Lenders shall be required to make any change in methodology for calculating the Independent Amount effected after this Final Order is granted that is not contemplated by the terms of the Post-Petition Independent Amount Letter, and the Refining Debtors shall notify the DIP Lenders of any increase in the amount of the Independent Amount by more than twenty percent (20%).

29. Notwithstanding anything to the contrary in section 562 of the Bankruptcy Code, the determination of any damages, settlement payments, or termination payments owing under any Intermediation Contract or Hedge Facility Document (including the timing of measurement or calculation of any such damages, settlement payments or termination payments) shall be made pursuant to the terms of such Intermediation Contract or Hedge Facility Document, as applicable.

30. All of the Intermediation Contracts (which for the avoidance of doubt do not include the Hedge Facility regardless of how documented for purposes of lien or claim priority hereinunder) collectively between Vertex Refining and the other Refining Debtors, as applicable, and Macquarie shall constitute a single unified contract and integrated agreement.

31. Solely with respect to Macquarie, to the extent applicable, the automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent necessary to allow enforcement of rights and remedies by Macquarie under the Intermediation Contracts (as amended by the Assurance Agreement), including suspension of performance, termination, liquidation, acceleration, setoff, netting, giving of any notices necessary or appropriate pursuant to the Intermediation Contracts, giving instruction to owners or operators of third party infrastructure facilities regarding Macquarie's property, collateral, realization (including sale) of such property upon termination, and, without limitation of the foregoing, to enable the Refining Debtors to comply with Sections 20.5 to 20.9 of the Post-Petition Intermediation Agreement setting forth procedures for the orderly arrangement for the processing, sale, transfer and/or evacuation of all Intermediation Title Property and the enforcement and realizing of Macquarie's lien on SOA Collateral, and Macquarie's rights thereunder shall not be modified, stayed, avoided or otherwise limited by order of the Bankruptcy Court or any court proceeding under the Bankruptcy Code. Without limiting the foregoing, the relief provided in this paragraph shall apply to, among other things:

- Any rights ("Termination Rights") of Macquarie to terminate or liquidate any or all Intermediation Contracts or any or all transactions, property and/or collateral transferred or posted thereunder, including any right to terminate or liquidate if: (i) an interim order that approves the Post-Petition Financial Agreement (the "Interim DIP Order") or a final order that approves the Post-Petition Financing Agreement (the "Final DIP Order") and, in each case, that is in form and substance reasonably acceptable to Macquarie, the Consenting Term Loan Lenders, and the Debtors, is not entered by the Bankruptcy Court by the dates falling 3 and 36 days after the Petition Date, respectively, provided that the form of the proposed Interim DIP Order filed on the docket is deemed to be in form and substance reasonably acceptable to Macquarie; (ii) the Post-Petition Financing Agreement has not been funded in the aggregate amount of at least US\$39,390,204.38 by September 27, 2024 and thereafter in accordance with the Approved Budget (as defined in the Post-Petition Financing Agreement); (iii) this Final Order, in form and substance reasonably acceptable to Macquarie and the Debtors is not entered by the date falling (36) days after the Petition Date; (iv) no chapter 11 plan or Asset Sale reasonably acceptable to Macquarie has been confirmed and has become effective or has closed by the Expiration Date (as defined in the

Post-Petition Intermediation Agreement); provided, that a sale or plan of reorganization will be deemed to be acceptable to Macquarie if (1) it provides for (a) purchase from Macquarie of all inventories owned by it in Included Storage Locations, at a price consistent with the then applicable Current Month Pricing Benchmark (as defined in the Post-Petition Intermediation Agreement) under the Post-Petition Intermediation Agreement, (b) payment in full of all other Transaction Obligations (as defined in the Post-Petition Intermediation Agreement) or cash collateralization of all actual or contingent obligations owed to Macquarie that may arise on or after the Expiration Date, from such sale proceeds or otherwise, and (c) with respect to a chapter 11 plan, releases in favor of Macquarie similar in all material respects to such releases contemplated in the RSA; provided that any delay in effecting the foregoing matters set out in this sub-paragraph (1) after the effective date of a plan of reorganization or sale under section 363 of the bankruptcy code as a result of an extension to the Term by a period in length equal to a Transitional Support Period (as defined in the Post-Petition Intermediation Agreement) (if any) that Macquarie has agreed to provide in accordance with the requirements of Section 3.1(c) of the Intermediation Contract shall be acceptable to Macquarie; and (2) would not require Macquarie to breach Applicable Law (as defined in the Post-Petition Intermediation Agreement) (including as relates to Sanctions Law) or Macquarie's Policies and Procedures (including, without limitation, those policies and procedures relating to "know your customer" requirements), (v) the Refining Debtors fail to satisfy any of their material obligations (including credit support obligations and any exclusivity requirement) under the Intermediation Contracts (other than an Intermediation Contract that is a Third Party Supply/Offtake Agreement (as defined in the Post-Petition Intermediation Agreement) unless the relevant failure to comply relates to a breach of any exclusivity requirement set out therein), the Assurance Agreement, the Interim Order or this Final Order, (vi) (1) the Refining Debtors move to reject an Intermediation Contract or such Intermediation Contract is rejected under section 365(a) of the Bankruptcy Code; or (2) a Refining Debtor moves to reject a Third Party Supply/Offtake Agreement (as defined in the Post-Petition Intermediation Agreement) other than in compliance with the consultation requirements set out in the Intermediation Contract; (vii) any Debtor declares itself to be, or is found by the Bankruptcy Court to be, administratively insolvent, or any Debtor declares that it does not intend to pay allowed administrative expense claims in full; (viii) the Debtors move or support a motion seeking to convert any Debtor's bankruptcy case to a case under Chapter 7 of the Bankruptcy Code or dismissing any Debtor's bankruptcy case; (ix) the Bankruptcy Court enters an order converting any Debtor's bankruptcy case to a case under Chapter 7 of the Bankruptcy Code or dismissing any Debtor's bankruptcy case; (x) the Bankruptcy Court enters an order, or any Debtor files or supports an application, motion or request for an order, directing the appointment under section 1104 of the Bankruptcy Code of (1) a trustee or (2) an examiner or any other person with enlarged powers relating to the operation of the business of any Debtor (i.e., powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code); (xi) any debtor-in-possession financing facility under which any Debtor is obligated to perform is accelerated by the lender or the lender's agent or otherwise matures and remains unpaid; (xii) any Debtor has a receiver, custodian, trustee or liquidator appointed over all or a substantial portion of its assets or is subject to such an appointment or to any similar proceeding under the laws of any jurisdiction; (xiii) any Debtor files or supports a motion, proposes a plan or other pleading, or any order is entered by the

Bankruptcy Court, that in any material way affects, impairs, or limits (including the imposition of any stay or injunction) Macquarie's rights or the Refining Debtors' obligations under the Intermediation Contracts (other than under an Intermediation Contract that is a Third Party Supply/Offtake Agreement), the Assurance Agreement, the Interim Order or this Final Order or the validity, priority or enforceability of any security interests or claims afforded to Macquarie pursuant to the Interim Order, the Interim DIP Order, the Final DIP Order or this Final Order; (xiv) the Interim Order or this Final Order shall cease to be in full force and effect, in each case as determined by Macquarie in its commercially reasonable discretion; (xv) the Interim Order or this Final Order, (A) shall have been directly or indirectly affected, impaired, limited reversed, stayed, vacated or subjected to a stay pending appeal or otherwise modified in any way materially adverse to the protections afforded to Macquarie under the Interim Order or this Final Order, in either case, without the prior written consent of Macquarie, or (B) are modified or amended in any way that affects any Hedge Termination Rights (as defined in this Final Order) under the Hedge Facility Documents; or that is otherwise materially adverse to the protections afforded to the Hedge Provider under the Interim Order and/or this Final Order, without the prior written consent of the Hedge Provider; (xvi) an order is entered by the Bankruptcy Court requiring the avoidance of any payment received by Macquarie under any Intermediation Contract or any Refining Debtor moves for the avoidance of any payment received by Macquarie under any Intermediation Contract, whether such payment is received prior to, on or after the Petition Date; (xvii) any Intermediation Contract shall be assigned by any Refining Debtor to any third party without Macquarie's prior written consent, (xviii) any motion or other pleading is filed by a Refining Debtor proposing a transaction (other than the transactions expressly contemplated by the Plan) in relation to the sale of the Refinery that would not result in the Refining Debtors' obligations under the Intermediation Facility being performed in full, other than an Acceptable Plan or Sale (xix) the Bankruptcy Court enters an order or orders granting relief from the automatic stay under section 362 of the Bankruptcy Code with regard to any assets of the Refining Debtors and such relief would have or could reasonably be expected to have a material adverse effect; (xx) noncompliance by any Refining Debtor with any of the material terms of the Interim Order or this Final Order; and (xxi) other applicable termination rights set forth in the Prepetition Intermediation Agreement.

- No Termination Right will arise under any Intermediation Contract unless Macquarie gives the Debtors, and counsel thereto, five (5) days' prior written notice by email to cure any condition that, after the giving of such notice and the lapse of such cure period (unless a longer grace period or cure period is specified in the Intermediation Contracts, in which case, such longer cure period shall apply), will give rise to a Termination Right, *provided*, that in the case of the Termination Rights described in subsections (iii), (iv), (ix), (xi), (xvii), (xvi), and (xviii) above, no notice requirement or opportunity to cure shall apply.
- Subject to the satisfaction of any applicable notice requirement and/or the lapse of any applicable cure period, on and after the time when a Termination Right arises under any Intermediation Contract, Macquarie shall be entitled to immediately exercise rights and remedies to suspend performance, terminate commitments, terminate, liquidate and/or accelerate transactions, offset or net termination values or payment amounts and/or apply

any cash collateral (including cash collateral in the form of an Independent Amount) in its possession or control (collectively, the “Immediate Exercise Rights and Remedies”), each in accordance with the terms of the applicable contract; provided, however, that the exercise of such Immediate Exercise Rights and Remedies shall in no way limit the Debtors’ ability to contest whether any such event has occurred or seek recourse against Macquarie for any wrongful exercise of such rights; provided, further, that for the avoidance of doubt, such Immediate Exercise Rights and Remedies shall not apply to any SOA Collateral in the Debtors’ possession.

- With respect to all rights and remedies other than the Immediate Exercise Rights and Remedies, provided for in the Intermediation Contracts and under applicable law (the “Rights and Remedies”), unless the Bankruptcy Court orders otherwise during the Remedies Notice Period (as defined below), upon the occurrence of any default, event of default, additional event of default, termination event or additional termination event (including any Termination Right) under any Intermediation Contract and the giving of five (5) days’ prior written notice (which shall run concurrently with any notice required to be provided under the applicable Intermediation Contract or otherwise in this Final Order) (the “Remedies Notice Period”) via email to the Debtors, and counsel thereto (and, upon receipt, the Debtors shall promptly provide a copy of such notice to lead counsel for the Committee, if any, and the U.S. Trustee), Macquarie may exercise such rights and remedies.
- In any hearing regarding any exercise of any rights or remedies under the Intermediation Contracts, the only issues that may be raised by any party in opposition thereto shall be (i) whether, in fact, the relevant default, event of default, additional event of default, termination event or additional termination event has occurred and (ii) whether the proposed exercise of such right or remedy is in accordance with the terms of the Intermediation Contracts.
- Any rights of Macquarie under the Intermediation Contracts to dispose of its property consisting of Hydrocarbon Inventories and the liquidation of such collateral by Macquarie in accordance with the terms of the Intermediation Contracts and notwithstanding any applicable law (including the Uniform Commercial Code) that is inconsistent with the collateral disposition provisions of the Intermediation Contracts.

32. Following the occurrence of the Expiration Date or the delivery of an Unwind Notice, the Refining Debtors shall use reasonable best efforts to cooperate with the liquidation of Macquarie’s collateral at the direction of Macquarie, as applicable, including the agreement to refine Crude Oil Inventory into refined Products. The provisions of the Intermediation Contracts (as amended by the Assurance Agreement) relating to liquidation of collateral are hereby approved, including those relating to: (i) the process for proposing a plan for inventory dispositions, and the notification, comment period and Bankruptcy Court dispute resolution

procedures relating to such plans and (ii) reporting by Macquarie, as applicable regarding the progress of such collateral dispositions.

33. Solely with respect to the Hedge Provider, to the extent applicable, the automatic stay provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent necessary to allow enforcement of rights and remedies by the Hedge Provider under the Hedge Facility Documents, including suspension of performance, termination, liquidation, acceleration, setoff, netting, giving of any notices necessary or appropriate pursuant to the Hedge Facility Documents, and the Hedge Provider's rights thereunder shall not be modified, stayed, avoided or otherwise limited by order of the Bankruptcy Court or any court proceeding under the Bankruptcy Code. Without limiting the foregoing, the relief provided in this paragraph shall apply to, among other things, the termination rights in the Hedge Facility Documents, which include, in addition to standard events of default (other than Section 5(a)(vii) (*Bankruptcy*) of the 2002 ISDA Master Agreement and termination events in the 2002 ISDA Master Agreement (the "Hedge Termination Rights")):

- an amendment is made to Section 5(a)(vii) (*Bankruptcy*) of the 2002 ISDA Master Agreement as it applies to Vertex Refining such that Hedge Provider has the right to terminate the Hedge Facility Documents and all related transactions entered into thereunder if: (i) the Interim DIP Order and the Final DIP Order, each in form and substance reasonably acceptable to Hedge Provider, are not entered by the Bankruptcy Court by the dates falling 3 and 36 days after the Petition Date, respectively, provided that the form of the proposed Interim DIP Order filed on the docket is deemed to be in form and substance reasonably acceptable to Hedge Provider; (ii) the Post-Petition Financing Agreement has not been funded in the aggregate amount of at least US\$39,390,204.38 (before taking into account any holdbacks or funding date payments) by September 27, 2024, and thereafter in accordance with the Approved Budget (as defined in the Post-Petition Financing Agreement); (iii) this Final Order, in form and substance reasonably acceptable to the Hedge Provider and the Debtors is not entered by the date falling 36 days after the Petition Date; (iv) failure to consummate or confirm, as applicable, an Acceptable Plan or Sale (as defined in the ISDA Amendment Agreement) by the date falling four (4) calendar months or, but only if the Term has been extended under the Post-Petition Intermediation Agreement, five (5) or six (6) calendar months, after the Petition Date (as defined in the Intermediation Contract), (v) the Debtors fail to satisfy any of their material obligations

(including credit support obligations) under the Hedge Facility Documents, the ISDA Amendment Agreement (as defined in the Assurance Agreement), the Interim Order or this Final Order, (vi) the Debtors move to reject Hedge Facility Document or such Hedge Facility Document is rejected under section 365(a) of the Bankruptcy Code; (vii) any Debtor declares itself to be, or is found by the Bankruptcy Court to be, administratively insolvent, or any Debtor declares that it does not intend to pay allowed administrative expense claims in full; (viii) the Debtors move or support a motion seeking to convert any Debtor's bankruptcy case to a case under chapter 7 of the Bankruptcy Code or dismissing any Debtor's bankruptcy case; (ix) the Bankruptcy Court enters an order converting any Debtor's bankruptcy case to a case under chapter 7 of the Bankruptcy Code or dismissing any Debtor's bankruptcy case; (x) the Bankruptcy Court enters an order, or any Debtor files or supports an application, motion or request for an order, directing the appointment under section 1104 of the Bankruptcy Code of (1) a trustee or (2) an examiner or any other person with enlarged powers relating to the operation of the business of any Debtor (i.e., powers beyond those set forth in section 1106(a)(3) and (4) of the Bankruptcy Code); (xi) any debtor-in-possession financing facility under which any Debtor is obligated to perform is accelerated by the lender or the lender's agent or otherwise matures and remains unpaid; (xii) any Debtor has a receiver, custodian, trustee or liquidator appointed over all or a substantial portion of its assets or is subject to such an appointment or to any similar proceeding under the laws of any jurisdiction; (xiii) any Debtor files or supports a motion, proposes a plan or other pleading, or any order is entered by the Bankruptcy Court, that in any material way affects, impairs, or limits (including the imposition of any stay or injunction) the Hedge Provider's rights or the Debtors' obligations under Hedge Facility Documents, the ISDA Amendment Agreement (as defined in the Assurance Agreement), the Interim Order or this Final Order or the validity, priority or enforceability of any security interests or claims granted to the Hedge Provider pursuant to the Interim Order, the Interim DIP Order, the Final DIP Order or this Final Order; (xiv) the Interim Order or this Final Order shall cease to be in full force and effect, in each case as determined by Hedge Provider in its commercially reasonable discretion; (xv) the Interim Order or this Final Order (A) shall have been directly affected, impaired, limited reversed, stayed, vacated or subjected to a stay pending appeal or otherwise modified in any way materially adverse to the protections afforded to the Hedge Provider under the Interim Order or this Final Order, in either case, without the prior written consent of the Hedge Provider, or (B) are modified or amended in any way that affects any Hedge Termination Rights (as defined in this Final Order) under the Hedge Facility, or that is otherwise materially adverse to the protections afforded to the Hedge Provider under the Interim Order and/or this Final Order, without the prior written consent of the Hedge Provider; (xvi) an order is entered by the Bankruptcy Court requiring the avoidance of any payment received by the Hedge Provider under the Hedge Facility Documents or any Debtor moves for the avoidance of any payment received by the Hedge Provider under any Hedge Facility Documents, whether such payment is received prior to, on or after the Petition Date; (xvii) any Hedge Facility Document or Hedging Transaction entered into thereunder shall be assigned by any Debtor to any third party without the Hedge Provider's prior written consent, (xviii) any motion or other pleading is filed by a Debtor proposing a transaction (other than the transactions expressly contemplated by the Plan) in relation to the sale of the refinery that would not result in the Refining Debtors' obligations under the Hedge Facility being

performed in full, other than an Acceptable Plan or Sale (xix) the Bankruptcy Court enters an order or orders granting relief from the automatic stay under section 362 of the Bankruptcy Code with regard to any assets of the Debtors and such relief would have or could reasonably be expected to have a material adverse effect; and (xx) noncompliance by any Debtor with any of the material terms of the Interim Order or this Final Order;

- an additional termination event shall occur if at any time the Participating Hedging Debtor's obligations under the Hedge Facility Documents fail or cease to be secured with the ranking and order of priority of security specified in Exhibit 2 and Exhibit 3 to this Final Order;
- No Hedge Termination Right will arise under any Hedge Facility Documents unless the Hedge Provider gives the Debtors, and counsel thereto, five (5) days' prior written notice by email to cure any condition that, after the giving of such notice and the lapse of such cure period (unless a longer grace period or cure period is specified in the Hedge Facility Documents, in which case, such longer cure period shall apply), will give rise to a Hedge Termination Right, provided, that in the case of the Hedge Termination Rights described in subsections (iii), (iv), (ix), (xi), (xvi), (xvii), and (xviii) above, no notice requirement or opportunity to cure shall apply;
- Subject to the satisfaction of any applicable notice requirement and/or the lapse of any applicable cure period, on and after the time when a Hedge Termination Right arises under any Hedge Facility Document, the Hedge Provider shall be entitled to immediately exercise the Immediate Exercise Rights and Remedies, each in accordance with the terms of the applicable contract; *provided*, however, that the exercise of such Immediate Exercise Rights and Remedies shall in no way limit the Debtors' ability to contest whether any such event has occurred or seek recourse against the Hedge Provider for any wrongful exercise of such rights;
- With respect to other Rights and Remedies other than the Immediate Exercise Rights and Remedies, unless the Bankruptcy Court orders otherwise during the Remedies Notice Period, upon the occurrence of any default, event of default, additional event of default, termination event or additional termination event and the giving of five (5) days' prior written notice (which shall run concurrently with any notice required to be provided under the applicable Hedge Facility Document or otherwise in this Final Order) via email to the Debtors, and counsel thereto (and, upon receipt, the Debtors shall promptly provide a copy of such notice to lead counsel for the Committee, if any, and the U.S. Trustee), the Hedge Provider may exercise such rights and remedies; and
- In any hearing regarding any exercise of any rights or remedies under the Hedge Facility Documents, the only issues that may be raised by any party in opposition thereto shall be (i) whether, in fact, the relevant default, event of default, additional event of default, termination event or additional termination event has occurred and (ii) whether the proposed exercise of such right or remedy is in accordance with the terms of the Hedge Facility Documents.

34. With respect to all rights and remedies provided for in the Tripartite Agreements and Shell Agreements and under applicable law (the “Shell Rights and Remedies”), unless the Bankruptcy Court orders otherwise, upon the occurrence of any Event of Default (as defined in the Shell Support Agreement) under the applicable Shell Agreement or Tripartite Agreement, and the giving of five (5) days’ prior written notice (which shall run concurrently with any notice required to be provided under the applicable Shell Agreement or Tripartite Agreement or otherwise in this Final Order) (the “Shell Remedies Notice Period”) via email to the Debtors, and counsel thereto (and, upon receipt, the Debtors shall promptly provide a copy of such notice to lead counsel for the Committee, if any, and the U.S. Trustee), Shell may exercise such rights and remedies upon entry of an order of the Bankruptcy Court finding that an Event of Default has occurred (as defined in the Shell Support Agreement); *provided* that after the expiration of such notice and cure period, and pending entry of an order by the Bankruptcy Court finding that an Event of Default (as defined in the Shell Support Agreement) has occurred, the provisions of section 362 of the Bankruptcy Code are hereby vacated and modified to the extent and if necessary to allow enforcement of rights and remedies by Shell as set forth in the Shell Support Agreement.

35. The Debtors waive the right and shall not seek relief, including under section 105(a) of the Bankruptcy Code, to the extent that any such relief would in any way restrict or impair the rights of (x) Macquarie under the Intermediation Contracts (as amended by the Assurance Agreement) or this Final Order or (y) the Hedge Provider under the Hedge Facility Documents or this Final Order; provided, that such waiver shall not preclude the Debtors from contesting whether a default has occurred under any Intermediation Contract or Hedge Facility Document. Neither Macquarie nor the Hedge Provider shall be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the SOA Collateral or the Hedging Participants’ Collateral,

respectively, except, with respect to Macquarie, as set forth in the definition of “Business Interruption Insurance Percentage” in Exhibit 4. In no event shall the “equities of the case” exception in section 552(b) of the Bankruptcy Code apply to any claims of Macquarie or the Hedge Provider.

36. No costs or expenses of preserving or disposing of any collateral of Macquarie or of the Hedge Provider shall be imposed on Macquarie or the Hedge Provider, as applicable, or recoverable from any collateral of Macquarie or the Hedge Provider, as applicable, pursuant to section 506(c) of the Bankruptcy Code or otherwise without the prior written consent of Macquarie or the Hedge Provider, as applicable, and no such consent shall be implied from any action, inaction or acquiescence by Macquarie or the Hedge Provider. Neither Macquarie nor the Hedge Provider shall be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person (as defined in the DIP Order) incurred in connection with the Chapter 11 Cases or any successor cases under any chapter of the Bankruptcy Code. Nothing in this Final Order or otherwise shall be construed to obligate Macquarie or the Hedge Provider, in any way, to pay compensation to, or to reimburse expenses of, any Professional Person or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement.

37. Without limiting any other provision of this Final Order, any claims arising from the termination of Intermediation Contracts or the Hedge Facility Documents shall be determined in accordance with the terms of such Intermediation Contracts or such Hedge Facility Documents, as applicable.

38. All rights, liens, and claims requested, approved, or otherwise referenced herein, are subject to the Carve Out, which is incorporated herein by reference. For the avoidance of

doubt, Macquarie and the Hedge Provider, or counsel thereto, shall be entitled to deliver a Carve Out Trigger Notice (as defined in the DIP Order) pursuant to the terms of the Carve Out.

39. Except as otherwise provided in the Intermediation Contracts, the Assurance Agreement, the Hedge Facility Documents, the Interim Order or this Final Order, each of the Debtors and the Debtors' estates, on their own behalf and on behalf of each of their predecessors, their successors, and assigns shall, to the maximum extent permitted by applicable law, unconditionally, irrevocably and fully forever release, waive and discharge each of Macquarie and the Hedge Provider, and each of their former, current, or future officers, employees, directors, agents, representatives, owners, members, partners, financial advisors, legal advisors, shareholders, managers, consultants, accountants, attorneys, affiliates, predecessors and predecessors in interest, each in their capacities as such, of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, rights, assertions, allegations, actions, suits, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, or judgments of every type, whether known, unknown, asserted, unasserted, suspected, unsuspected, accrued, unaccrued, fixed, contingent, pending, or threatened including all legal and equitable theories of recovery, arising under common law, statute or regulation or by contract, of every nature and description that exist on the date hereof arising out of, relating to, or in connection with (a) any of the Intermediation Contracts (including the Assurance Agreement) or the transactions contemplated thereunder or any of the Hedge Facility Documents or the transactions contemplated thereunder or (b) this Final Order, including: (i) any so-called "lender liability" or equitable subordination claims or defenses, (ii) any and all claims to recharacterize purchases and sales entered into with respect to Intermediation Title Property under the Intermediation Contracts as secured loans, (iii) any and all claims and causes of action arising

under the Bankruptcy Code, and (iv) any and all claims and causes of action regarding the validity, priority, perfection, or avoidability of the liens of Macquarie or the Hedge Provider, subject to a Challenge Proceeding during the Challenge Period (each as defined in the DIP Order).

40. Without prejudice to the rights of any other party in interest (subject to the limitations thereon contained in the proviso to this paragraph below), the Debtors and, solely with respect to clauses (e), below, the DIP Agent and Term Loan Agent on behalf of the DIP Lenders and the Term Loan Lenders, admit, stipulate and agree, subject to the Challenge Period, (the “Stipulations”) that:

(a) (i) as of the Petition Date, (A) the Refining Debtors were justly and lawfully indebted and liable to Macquarie, without defense, counterclaim or offset of any kind, for all Intermediation Obligations pursuant to, and in accordance with the terms of, the Intermediation Contracts, including accrued and unpaid interest thereon together with amounts due and owing in connection with transactions thereunder and fees, expenses (including any attorneys’, accountants’, appraisers’ and financial advisors’ fees, in each case, that are chargeable or reimbursable under the Intermediation Contracts), charges, indemnities and other obligations incurred in connection therewith (whether arising before or after the Petition Date) as provided in the Intermediation Contracts, (ii) the Intermediation Obligations constitute the legal, valid and binding obligations of the Refining Debtors, enforceable in accordance with their terms (other than in respect of the stay of enforcement arising from section 362 of the Bankruptcy Code), and (iii) no portion of the Intermediation Obligations or any payments made to Macquarie or applied to or paid on account of the obligations owing under the Intermediation Contracts prior to the Petition Date is subject to any contest, attack, rejection, recovery, recoupment, reduction, defense, counterclaim, offset,

subordination, recharacterization, avoidance, or other claim, cause of action or other challenge of any nature under the Bankruptcy Code or applicable non-bankruptcy law;

(b) The intermediation transactions constitute “true sales” of the Intermediation Title Property by Vertex Refining to Macquarie and by Macquarie to Vertex Refining such that Macquarie has legal and beneficial title to the Intermediation Title Property, and such Intermediation Title Property does not constitute property of any of the Debtors’ estates under section 541 of the Bankruptcy Code;

(c) the Intermediation Facility Liens are (i) valid, binding, perfected, enforceable, first-priority liens and security interests in the SOA Collateral, not subject to avoidance, recharacterization, subordination, recovery, attack, effect, counterclaim, defense or claim under the Bankruptcy Code or applicable non-bankruptcy law and (ii) as of the Petition Date, subject to the lien priorities set forth in **Exhibit 2**;

(d) Neither Macquarie nor the Hedge Provider controls the Debtors or their properties or operations, have authority to determine the manner in which any Debtor’s operations are conducted or are control persons or insiders of the Debtors by virtue of any of the actions taken with respect to, in connection with, related to or arising from the Intermediation Contracts or the Hedge Facility, respectively;

(e) Without limitation to the agreements with respect to Intermediation Title Property set forth in the Prepetition Intercreditor Agreement, which remain in full force and effect, neither the Debtors, nor the DIP Agent and Term Loan Agent on behalf of the DIP Lenders and the Term Loan Lenders shall contest, protest or object to, or support any other person in contesting, protesting or objecting to, in any proceeding or action, Macquarie’s title to or ownership of, or other rights in, all or any part of the Intermediation Title Property;

(f) Macquarie could not be compelled to continue to perform under the Intermediation Contracts following the Petition Date. In this regard, the Debtors acknowledge, and this Court finds, that: (i) Macquarie is a “forward contract merchant,” “swap participant” and/or a “master netting agreement participant” as such terms are used in sections 556, 560, and/or 561 and defined in section 101 of the Bankruptcy Code; (ii) the Intermediation Contracts by and between the Debtors and Macquarie are “forward contracts,” “swap agreements” and/or “master netting agreements” as the case may be, as such terms are defined in section 101 of the Bankruptcy Code and, as such, are therefore “safe harbor” contracts under the applicable provisions of the Bankruptcy Code. As safe harbor contracts, the right of Macquarie to cause the liquidation and/or termination of the Intermediation Contracts because of a condition of the kind specified in section 365(e)(1) of the Bankruptcy Code is not and cannot be stayed, avoided or otherwise limited by operation of any provision of the Bankruptcy Code or order of this Court; and (iii) the Intermediation Contracts constitute a “contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor” within the meaning of Sections 365(c)(2) and 365(e)(2)(B) of the Bankruptcy Code; and

(g) Macquarie is oversecured as of the Petition Date, and accordingly, pursuant to Section 506(b) of the Bankruptcy Code, Macquarie is entitled to interest and any reasonable fees, costs and expenses provided by the Intermediation Contracts or applicable law; provided, the official committee of creditors holding unsecured claims appointed in these Chapter 11 Cases, if any, pursuant to section 1102 of the Bankruptcy Code (the “Committee”) shall have until December 7, 2024, and all other non-Debtor parties-in-interest (including a trustee, if appointed or elected prior to the Investigation Termination Date, as defined below) shall have until November 25, 2024 (each, as applicable, the “Investigation Termination Date”) to investigate the

validity, extent, priority, perfection and enforceability of: the SOA Prepetition Liens and (in addition to obtaining the requisite standing) to assert any other claims or causes of action against each of the Pre-Petition Term Loan Secured Parties (as defined in the DIP Order). If (1) any Committee or any non-Debtor party-in-interest determines that there may be a challenge to the SOA Prepetition Liens and is granted authority and standing by this Court by the Investigation Termination Date, then such Committee or other non-Debtor party-in-interest, as applicable, shall be permitted to file and prosecute an objection or claim related thereto (each, a “Challenge”), and shall have only until the applicable Investigation Termination Date to file such objection or claim (or otherwise initiate an appropriate action on behalf of the Debtors’ estates) setting forth the basis of any such challenge, claim or cause of action; provided, however, that nothing contained in the Intermediation Documents or this Final Order shall be deemed to confer standing on any Committee or any other non-Debtor party-in-interest to commence a Challenge, and such Committee or other non-Debtor party-in-interest shall be required to move for standing and satisfy the applicable standard for obtaining standing to pursue estate causes of action. If a Challenge is not filed on or before the Investigation Termination Date, then, without further action by any party or any further order of this Court: (a) the agreements, acknowledgements, stipulations and releases contained in this Paragraph 40 and its subparagraphs, shall be deemed to be immediately and irrevocably binding on the Debtors, and the Debtors’ estates, the Committee, and all parties-in-interest and any and all successors-in-interest thereto shall thereafter be forever barred from bringing any Challenge; (b) the liens and security interests of Macquarie shall be deemed to constitute valid, binding, enforceable and perfected liens and security interests not subject to avoidance or disallowance pursuant to the Bankruptcy Code or applicable non-bankruptcy law; and (c) each of the Intermediation Obligations shall be deemed to be finally allowed claims for all

purposes in the Chapter 11 Cases and any subsequent chapter 7 cases, in the amounts set forth in this Paragraph 40 and its subparagraphs and shall not be subject to challenge by any party-in-interest as to validity, priority or otherwise. Macquarie shall cooperate in all reasonable requests for information in order to assist the Committee in its investigation under this Paragraph 40 and its subparagraphs. Upon a successful Challenge, the Court may fashion any appropriate remedy. Notwithstanding anything to the contrary herein: (a) if any such Challenge is timely commenced, the stipulations contained in this Paragraph 40 and its subparagraphs shall nonetheless remain binding on all parties-in-interest and preclusive except with respect to the party asserting the Challenge and to the extent that such stipulations are expressly and successfully challenged in such Challenge; and (b) Macquarie reserves all of its rights to contest on any grounds any Challenge. For the avoidance of doubt, any trustee appointed or elected in these cases shall, until the Investigation Termination Date (and thereafter, if a Challenge is commenced on or prior to the Investigation Termination Date) and for the duration of any adversary proceeding or contested matter commenced pursuant to this paragraph with respect to a Challenge (whether commenced by such trustee or commenced by any other non-Debtor party-in-interest on behalf of the Debtors' estates), be deemed to be a party other than the Debtors and shall not, for purposes of such adversary proceeding or contested matter, be bound by the acknowledgments, admissions, confirmations and stipulations of the Debtors in this Final Order.

41. The Assurance Agreement and the provisions of this Final Order shall be binding upon the Debtors, Macquarie and their respective successors and assigns (including any trustees appointed for the Debtors' estates) and inure to the benefit of Macquarie and Debtors (including any trustees hereafter appointed for the Debtors' estates in a proceeding under chapters 11 or 7 of the Bankruptcy Code) and their respective successors and assigns. The Hedge Facility and the

provisions of this Final Order shall be binding upon the Debtors, the Hedge Provider and their respective successors and assigns (including any trustees appointed for the Debtors' estates) and inure to the benefit of the Hedge Provider and Debtors (including any trustees hereafter appointed for the Debtors' estates in a proceeding under chapters 11 or 7 of the Bankruptcy Code) and their respective successors and assigns.

42. If the Chapter 11 Cases are dismissed, converted or substantively consolidated, then neither the entry of this Final Order nor the dismissal, conversion or substantive consolidation of these Chapter 11 Cases shall affect (x) the rights of Macquarie under the Intermediation Contracts or (y) the rights of the Hedge Provider under the Hedge Facility, and all of the rights and remedies thereunder of each of Macquarie and the Hedge Provider, as applicable, shall remain in full force and effect as if the Chapter 11 Cases had not been dismissed, converted, or substantively consolidated. If an order dismissing any of the Chapter 11 Cases is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that (a) the Intermediation Facility Liens and Intermediation Superpriority Claims granted to and conferred upon Macquarie and the protections afforded to Macquarie pursuant to this Final Order and the Intermediation Contracts shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all Intermediation Obligations shall have been paid and satisfied in full (and that such Intermediation Facility Liens, Intermediation Superpriority Claims, and other protections shall, notwithstanding such dismissal, remain binding on all interested parties); (b) the Hedging Liens and the Superpriority Hedging Claims granted to and conferred upon the Hedge Provider and the protections afforded to the Hedge Provider pursuant to this Final Order and the Hedge Facility shall continue in full force and effect and shall maintain their priorities as provided in this Final Order until all Hedge Obligations shall have been paid and

satisfied in full (and that such Hedging Liens and Superpriority Hedging Claims, and other protections shall, notwithstanding such dismissal, remain binding on all interested parties); and (c) to the greatest extent permitted by applicable law, this Court shall retain jurisdiction, notwithstanding such dismissal, for the purpose of enforcing the Intermediation Facility Liens, the Intermediation Superpriority Claims, the Hedging Liens and the Superpriority Hedging Claims referred to herein.

43. If the Chapter 11 Cases are dismissed, converted or substantively consolidated, then neither the entry of this Final Order nor the dismissal, conversion or substantive consolidation of the Chapter 11 Cases shall affect the rights of Shell under the Shell Agreements, and all of the rights and remedies thereunder of Shell shall remain in full force and effect as if the Chapter 11 Cases had not been dismissed, converted, or substantively consolidated. If an order dismissing any of the Chapter 11 Cases is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code) that the Super-Priority Claims granted to Shell and the protections afforded to Shell pursuant to this Final Order and the Shell Support Agreement shall continue in full force and effect and shall maintain their priorities as provided in this Final Order.

44. Shell shall not be required to file proofs of claim or requests for allowance and/or payment of administrative expenses in any of the Chapter 11 Cases with respect to the Shell Superpriority Claims, as applicable, and this Final Order, shall be deemed to constitute a timely filed proof of claim and request for allowance and/or payment of administrative expenses with respect to such obligations. Notwithstanding the foregoing, Shell, in respect of the Shell Superpriority Claims, is hereby authorized and entitled, in its sole discretion, but not required, to file in the Debtors' lead Chapter 11 Case In re Vertex Energy, Inc., Case No. 24-90507 (CML), a

master proof of claim on account of any and all of Shell's claims, if desired, (including, without limitation, administrative claims) arising under the Shell Agreements and the Tripartite Agreements and hereunder. Upon the filing of a Master Proof of Claim by Shell, it shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Debtors, as applicable, of any type or nature whatsoever with respect to the Shell Agreements and the Tripartite Agreements, as applicable, and each Shell entity, respectively, shall be treated as if such entity had filed a separate proof of claim and request for payment of an administrative expense in each of these Chapter 11 Cases, to the extent applicable.

45. Neither Macquarie nor the Hedge Provider shall be required to file proofs of claim or requests for allowance and/or payment of administrative expenses in any of the Chapter 11 Cases with respect to the Intermediation Superpriority Claims or the Superpriority Hedging Claims, as applicable, and this Final Order, including the stipulations in Paragraph 40 herein, shall be deemed to constitute a timely filed proof of claim and request for allowance and/or payment of administrative expenses with respect to such obligations. Notwithstanding the foregoing, each of Macquarie and the Hedge Provider, in respect of the Intermediation Superiority Claims and the Superpriority Hedging Claims, respectively, is hereby authorized and entitled, in its sole discretion, but not required, to file in the Debtors' lead Chapter 11 Case *In re Vertex Energy, Inc.*, Case No. 24-90507 (CML), a master proof of claim on account of any and all of Macquarie's claims (including, without limitation, administrative claims) arising under the Intermediation Contracts (as amended by the Assurance Agreement) and hereunder and any and all of the Hedge Provider's claims (including, without limitation, administrative claims) arising under the Hedge Facility Documents and hereunder, respectively, against each of the Refining Debtors and/or the Participating Hedging Debtors, as applicable. Upon the filing of a Master Proof of Claim by

Macquarie and/or the Hedge Provider, it shall be deemed to have filed a proof of claim in the amount set forth opposite its name therein in respect of its claims against each of the Refining Debtors and/or the Participating Hedging Debtors, as applicable, of any type or nature whatsoever with respect to the Intermediation Contracts and/or the Hedge Facility Documents, as applicable, and each of Macquarie and the Hedge Provider shall be treated as if such entity had filed a separate proof of claim and request for payment of an administrative expense in each of these Chapter 11 Cases, to the extent applicable.

46. Notwithstanding any other provisions in this Final Order, the benefits and protections of this Final Order shall be extended to all existing positions and future intermediation activities, regardless of whether the transaction arose prior or subsequent to the Petition Date or matures after the expiration of this Final Order or termination or liquidation of any Intermediation Contract.

47. This Final Order constitutes, where applicable, findings of fact and conclusions of law and shall take effect and be fully enforceable immediately upon the execution thereof.

48. This Court shall have exclusive jurisdiction with respect to any and all disputes or matters under, or arising out of or in connection with, either the Intermediation Contracts or the transactions entered into thereunder.

49. This Final Order shall be immediately effective and enforceable, and shall not be subject to any stay under Bankruptcy Rule 6004(h) or otherwise.

Signed: October 29, 2024



Christopher Lopez
United States Bankruptcy Judge

SCHEDULE 1

Intermediation Contracts

Core

1. Assurance and Amendment Restatement Agreement, dated as of September 25, 2024 (the “Assurance Agreement”), by and among Macquarie Energy North America Trading Inc., Vertex Refining Alabama LLC, Vertex Renewables Alabama LLC and Vertex Energy, Inc.;
2. Amended and Restated Supply and Offtake Agreement, as amended and restated by the Assurance Agreement;
3. Amended and Restated Storage & Services Agreement, as amended and restated by the Assurance Agreement;
4. Amended and Restated Fee Letter, as amended and restated by the Assurance Agreement;
5. Amended and Restated copy of the Independent Amount Letter, as amended by the Assurance Agreement;
6. Amendment Letter in Relation to the Crude Oil and Hydrocarbon Feedstock Supply Agreement, dated as of September 24, 2024, by and between Vertex Refining Alabama LLC, Macquarie Energy North America Trading Inc., and Shell Trading (US) Company;
7. Master Crude Oil and Products Agreement, dated as of April 1, 2022, by and between Macquarie Energy North America Trading Inc., and Vertex Refining Alabama LLC;
8. Guaranty, dated as of April 1, 2022, by and between Vertex Energy, Inc. and Macquarie Energy North America Trading Inc.;
9. Guaranty, dated as of May 26, 2023, by and between Vertex Renewables Alabama LLC and Macquarie Energy North America Trading Inc.;
10. Pledge and Security Agreement, dated as of April 1, 2022, by and between Vertex Alabama Refining LLC and Macquarie Energy North America Trading Inc.;
11. Second Amended and Restated Intercreditor Agreement, dated as of June 3, 2024, by and among Cantor Fitzgerald Securities as Term Loan Agent, Macquarie Energy North America Trading Inc., as the Intermediation Facility Secured Party, Vertex Refining Alabama LLC, as the Company, and other acknowledging affiliates from time to time party thereto; and
12. Support Agreement, dated as of September 23, 2024, by and among Vertex Refining Alabama, LLC, Shell Trading (US) Company, and Equilon Enterprises LLC d/b/a Shell Oil Products US;

Infrastructure

A. BWC Blakeley Island

1. BWC Storage Rights Agreement, dated as of September 1, 2023, by and among Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc.; and
2. Consent to Storage and Usage Agreement, dated as of September 1, 2023, by and among BWC Terminals LLC and BWC Alabama LLC, Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc.

B. Center Point Chickasaw

1. Center Point Storage Rights Agreement, dated as of December 8, 2023, by and between Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc.; and
2. Consent to Storage and Usage Agreement, dated as of December 8, 2023, by and among Center Point Terminal Chickasaw, LLC, Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc.

C. Plains Mobile

1. Storage Rights Agreement, dated as of April 1, 2022, by and between Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc.; and
2. Consent to Storage and Usage Agreement, dated as of April 1, 2022, by and among Plains Marketing, L.P., Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc.

D. BWC Chickasaw

1. BWC Storage Rights Agreement, dated as of the relevant BWC Inclusion Date,¹ by and among Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc (the “Post-Petition BWC SRA”); and
2. Consent to Storage and Usage Agreement, dated as of the relevant BWC Inclusion Date, by and among BWC Terminals LLC and BWC Alabama LLC, Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc (the “Post-Petition BWC Consent”).

¹ The BWC Inclusion Date (as defined in the Postpetition Intermediation Agreement) may occur after the date of the Final Order.

E. Center Point Blakeley Island

1. Center Point Storage Rights Agreement, dated as of the relevant Center Point Inclusion Date,² by and between Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc (the “Post-Petition Center Point SRA”); and
2. Consent to Storage and Usage Agreement, dated as of the relevant Center Point Inclusion Date, by and among Center Point Terminal Blakeley Island LLC, Vertex Refining Alabama LLC, and Macquarie Energy North America Trading Inc. (the “Post-Petition Center Point Consent,” and, together with the Post-Petition BWC SRA, the Post-Petition BWC Consent and the Post-Petition Center Point SRA, the “Post-Petition Storage Rights Agreements”).

² The Center Point Inclusion Date (as defined in the Postpetition Intermediation Agreement) may occur after the date of the Final Order.

Exhibit 1

Exhibit 1 to the Interim Order (the Assurance Agreement) is incorporated herein by reference

EXHIBIT 2**Relative Lien Priorities on Collateral¹**

Shared Collateral constituting Intermediation Facility Priority Collateral (other than Business Interruption Insurance Proceeds)	Shared Collateral constituting DIP Priority Collateral (other than Business Interruption Insurance Proceeds)	Shared Collateral constituting Business Interruption Insurance Proceeds²	DIP Exclusive Collateral
Carve Out	Carve Out	Carve Out	Carve Out
Permitted Priority Liens	Permitted Priority Liens	Permitted Priority Liens	Permitted Priority Liens
Intermediation Facility Liens	Hedging Liens	Hedging Liens/ Intermediation Facility Liens/DIP Liens	Hedging Liens ³
Intermediation Facility Adequate Protection Liens	DIP Liens	Pre-Petition Term Loan Adequate Protection Liens/ Intermediation Facility Adequate Protection Liens	DIP Liens
Hedging Liens	Pre-Petition Term Loan Adequate Protection Liens	Pre-Petition Liens	Pre-Petition Term Loan Adequate Protection Liens
DIP Liens	Pre-Petition Liens	-	Pre-Petition Liens
Pre-Petition Term Loan Adequate Protection Liens	Intermediation Facility Liens	-	-
Pre-Petition Liens	Intermediation Facility Adequate Protection Liens	-	-

¹ Terms used in this Exhibit shall have the meaning given to such terms in **Exhibit 4**.

² The Intermediator must have marshalled, taken, liquidated and exhausted all remedies and recoveries available to the Intermediator under the Intermediation Contracts from any other Intermediation Facility Priority Collateral, including Intermediation Title Property.

³ Only with respect to DIP Exclusive Collateral held by Participating Hedging Debtors.

EXHIBIT 3**Relative Claim Priorities¹²**

Vertex Refining (with respect to proceeds of Intermediation Facility Priority Collateral (other than Business Interruption Insurance Proceeds))	Vertex Refining (with respect to proceeds of DIP Priority Collateral (other than Business Interruption Insurance Proceeds))	Vertex Refining (with respect to Business Interruption Insurance Proceeds)	Parent	Vertex Renewables	Participating Hedging Debtors (other than Vertex Refining, Parent and Vertex Renewables)	All Other Debtors
Carve Out	Carve Out	Carve Out	Carve Out	Carve Out	Carve Out	Carve Out
Intermediation Superpriority Claims	Superpriority Hedging Claims	Superpriority Hedging Claims/ DIP Super-Priority Claims/ Intermediation Superpriority Claims	Superpriority Hedging Claims	Superpriority Hedging Claims	Superpriority Hedging Claims	DIP Super-Priority Claims
Pre-Petition Intermediation Facility Adequate Protection Claims	DIP Super-Priority Claims	Shell Superpriority Claims	All DIP Super-Priority Claims / Certain Intermediation Superpriority Claims (solely with respect to Business Interruption Insurance Proceeds)	DIP Super-Priority Claims	DIP Super-Priority Claims	Pre-Petition Term Loan Adequate Protection Super-Priority Claims

¹ Terms used in this Exhibit shall have the meaning given to such terms in **Exhibit 4**.

² The priorities shown on this **Exhibit 3** are not binding on Shell and are only for depiction. With respect to Shell Superpriority Claims, if there is any conflict between this **Exhibit 3** and the Shell Support Agreement, the Shell Support Agreement controls, it being understood that Paragraph 8 of this Intermediation Order is consistent with the Shell Support Agreement.

Vertex Refining (with respect to proceeds of Intermediation Facility Priority Collateral (other than Business Interruption Insurance Proceeds))	Vertex Refining (with respect to proceeds of DIP Priority Collateral (other than Business Interruption Insurance Proceeds))	Vertex Refining (with respect to Business Interruption Insurance Proceeds)	Parent	Vertex Renewables	Participating Hedging Debtors (other than Vertex Refining, Parent and Vertex Renewables)	All Other Debtors
Superpriority Hedging Claims	Intermediation Superpriority Claims	Pre-Petition Term Loan Adequate Protection Super-Priority Claims / Pre- Petition Intermediation Facility Adequate Protection Claims	Intermediation Superpriority Claims (claims other than Business Interruption Insurance Proceeds)	Intermediation Superpriority Claims	Pre-Petition Term Loan Adequate Protection Super-Priority Claims	-
DIP Super-Priority Claims	Shell Superpriority Claims	-	Shell Superpriority Claims	Pre-Petition Term Loan Adequate Protection Super-Priority Claims	-	-
Shell Superpriority Claims	Pre-Petition Term Loan Adequate Protection Super-Priority Claims	-	Pre-Petition Term Loan Adequate Protection Super-Priority Claims / Certain Pre-Petition Intermediation Facility Adequate Protection Claims (solely with respect to Business Interruption Insurance Proceeds)			

Vertex Refining (with respect to proceeds of Intermediation Facility Priority Collateral (other than Business Interruption Insurance Proceeds))	Vertex Refining (with respect to proceeds of DIP Priority Collateral (other than Business Interruption Insurance Proceeds))	Vertex Refining (with respect to Business Interruption Insurance Proceeds)	Parent	Vertex Renewables	Participating Hedging Debtors (other than Vertex Refining, Parent and Vertex Renewables)	All Other Debtors
Pre-Petition Term Loan Adequate Protection Super-Priority Claims	Pre-Petition Intermediation Facility Adequate Protection Claims	-	Pre-Petition Intermediation Facility Adequate Protection Claims (claims other than Business Interruption Insurance Proceeds)	-	-	-

EXHIBIT 4**Certain Defined Terms**

“*Books*” means, as to any Debtor, the books and records, including ledgers; records concerning such Debtor’s assets or liabilities, including the Collateral, business operations or financial condition; and all computer programs, or data storage, and the related devices and equipment, containing such information.

“*Business Interruption Insurance Percentage*” means, as of any date of determination, (i) with respect to the Intermediator, the percentage determined by dividing the outstanding Intermediation Obligations after the Intermediator has marshalled, taken, liquidated and exhausted all remedies and recoveries available to the Intermediator under the Intermediation Contracts (as defined in the Intermediation Order) from any other Intermediation Facility Priority Collateral and any insurance rights owned or held by the Intermediator in its own name covering such Intermediation Facility Priority Collateral to the Intermediation Obligations under the Intermediation Contracts, by the sum of such Intermediation Obligations, plus the outstanding Hedge Obligations plus the outstanding DIP Obligations, hereunder in each case, as of the time of the occurrence of the event giving rise to Business Interruption Insurance Proceeds; (ii) with respect to the Hedge Provider, the percentage determined by dividing the outstanding Hedge Obligations, by the sum of such Intermediation Obligations, plus the outstanding Hedge Obligations plus the outstanding DIP Obligations, hereunder in each case, as of the time of the occurrence of the event giving rise to Business Interruption Insurance Proceeds and (iii) with respect to the DIP Secured Parties hereunder, the difference between 100% and the percentages determined in items (i) and (ii) of this definition. For purposes of determining “Business Interruption Insurance Percentage” with respect to the Intermediator, the Intermediator shall be required to marshal, take, liquidate and exhaust all remedies and recoveries available to the Intermediator with respect to (x) all other categories of Intermediation Facility Priority Collateral, including Intermediation Title Property and (y) all insurance owned and held in the name of the Intermediator with respect to the Intermediation Facility Priority Collateral prior to receiving any recovery of Business Interruption Insurance Proceeds under policies required by the Intermediation Contracts and such policies shall be the secondary policy with respect to Intermediation Facility Priority Collateral.

“*Business Interruption Insurance Proceeds*” means proceeds of business interruption insurance policies maintained by Parent or Vertex Refining. Any Business Interruption Insurance Proceeds go, first, to satisfy the Carve Out, second, to any Permitted Priority Liens, and third, to any obligations secured by Hedging Liens, DIP Liens and Intermediation Facility Liens on a pari passu basis in accordance with the Business Interruption Insurance Percentage to claims secured by the DIP Liens, Hedging Liens and Intermediation Facility Liens.

“*Catalyst Assets*” means any catalyst assets and inventory constituting catalyst, precious metals assets and precious metals inventory and all additions, accessions and all rights related thereto.

“*Carve Out*” means the Carve Out (as defined in the DIP Order).

“*Collateral*” means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by any Debtor or arising and wheresoever located, including all accessions thereto and products and proceeds thereof (other than Excluded Property (as defined in the DIP Order or as defined in the Intermediation Order)) in or upon which a Lien is granted by a Debtor to the Secured Parties with the priorities as set forth in Exhibit 3.

“*Debtors*” means the Debtors (as defined in the DIP Order).

“*DIP Exclusive Collateral*” means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by any Debtor (excluding, Vertex Refining and limited with respect to the Hedge Provider, only Participating Hedging Debtors) or arising and wheresoever located, including all accessions thereto and products and proceeds thereof (other than Excluded Property or any other Shared Collateral, including business interruption insurance policies maintained by Parent) in or upon which a Lien is granted by a Debtor to the Hedge Provider and DIP Secured Parties with the priorities as set forth in Exhibit 3; provided that no Debtor shall grant a Lien to the Hedge Provider to the extent such Debtor does not constitute an “eligible contract participant” as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty by such Debtor.

“*DIP Liens*” means the DIP Liens (as defined in the DIP Order).

“*DIP Obligations*” means the DIP Obligations (as defined in the DIP Order).

“*DIP Order*” means that certain interim or final order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (IV) Granting Adequate Protection to the Pre-Petition Term Loan Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief.

“*DIP Priority Collateral*” means Shared Collateral other than the Intermediation Facility Priority Collateral including the DIP Secured Parties’ Business Interruption Insurance Percentage.

“*DIP Secured Parties*” means the DIP Secured Parties (as defined in the DIP Order).

“*DIP Super-Priority Claims*” means the DIP Super-Priority Claims (as defined in the DIP Order).

“*Excluded Property*” means Excluded Property (as defined in the DIP Order or as defined in the Intermediation Order).

“*Hedge Facility*” means the Hedge Facility (as defined in the Intermediation Order).

“*Hedge Obligations*” means the Hedge Obligations (as defined in the Intermediation Order) but shall not include any other Intermediation Obligations or Transaction

Obligations (as defined in the Intermediation Contracts), including, without limitation, by virtue of setoff, netting, or indemnification rights under the Intermediation Contracts.

“*Hedge Provider*” means the Hedge Provider (as defined in the Intermediation Order).

“*Hedging Liens*” means the Hedging Liens (as defined in the Intermediation Order).

“*Hydrocarbon Credit Support*” means, as of any time, all Inventory constituting or consisting of Hydrocarbons (as defined in the Intermediation Contracts) then owned or at any time hereafter acquired by Vertex Refining, that is located at a Company Storage Location (as defined in the Intermediation Contracts); provided that “Hydrocarbon Credit Support” shall not include any Excluded Property or any Catalyst Assets.

“*Independent Amount*” means the Independent Amount (as defined in the Independent Amount Letter as in effect on the date hereof).

“*Independent Amount Letter*” means the independent amount letter entered into between Vertex Refining and the Intermediator in connection with the Intermediation Contracts, as may be amended from time to time.

“*Intermediation Contracts*” means the Intermediation Contracts (as defined in the Intermediation Order).

“*Intermediation Title Property*” means Intermediation Title Property (as defined in the Intermediation Order) or the Proceeds thereof and Supporting Obligations with respect thereto, and the Independent Amount.

“*Intermediation Facility Adequate Protection Liens*” means the Intermediation Facility Adequate Protection Liens (as defined in the Intermediation Order).

“*Intermediation Facility Liens*” means the Intermediation Facility Liens (as defined in the Intermediation Order).

“*Intermediation Facility Priority Collateral*” means all of the following assets of Vertex Refining (or Parent, solely with respect to business interruption insurance policies held by the Parent subject, clause (c)) with respect to which a Lien is granted as security for the Intermediation Obligations in each case whether tangible or intangible: (a) all Inventory subject to or intended to be sold as Intermediation Title Property under the Intermediation Contracts; (b) all Inventory constituting Hydrocarbon Credit Support; (c) the Intermediator’s Business Interruption Insurance Percentage of the proceeds of business interruption insurance policies; and (d) all Proceeds of (including other proceeds of insurance with respect to the foregoing), and Supporting Obligations (including Letter of Credit Rights) with respect to, any of the foregoing.

“*Intermediation Obligations*” means the Intermediation Obligations (as defined in the Intermediation Order), whether arising prepetition or post-petition, but shall not

include any Hedge Obligations, including, without limitation, by virtue of setoff, netting, or indemnification rights under the Intermediation Contracts or Hedge Facility.

“Intermediation Order” means that certain interim or final order (I) Authorizing Continuation of the Intermediation Contracts, as Amended, (II) Authorizing the Debtors to Enter Into and Perform Postpetition Intermediation Transactions and Postpetition Hedging Transactions, (IV) Providing Superpriority Administrative Expense Status and Liens in Respect of Postpetition Intermediation Transactions and Postpetition Hedging Transactions, (V) Granting Adequate Protection to the Intermediation Provider, (VI) Provider Superpriority Administrative Expense Status in Respect of Purchaser Support Agreements, (VII) Modifying the Automatic Stay, (VIII) Scheduling a Final Hearing and (IX) Granting Related Relief.

“Intermediation Superpriority Claims” means the Intermediation Superpriority Claims (as defined in Intermediation Order).

“Intermediator” means Macquarie (as defined in the Intermediation Order).

“Inventory” means “inventory” as defined in the UCC, including work in process and finished products intended for sale or lease or to be furnished under a contract of service, of every kind and description now or at any time hereafter owned by or in the custody or possession, actual or constructive, of any Debtor, including such inventory as is temporarily out of its custody or possession or in transit and including any returns upon any accounts or other proceeds, including insurance proceeds, resulting from the sale or disposition of any of the foregoing and any documents of title representing any of the above, and each Debtor’s Books relating to any of the foregoing.

“Letter of Credit Rights” means “letter of credit rights” as defined in the UCC.

“Lien” means any pledge, bailment, lease, mortgage, deed of trust (or similar instrument), hypothecation, conditional sales and title retention agreement, charge, claim, encumbrance, preference, priority or other lien (statutory or otherwise) in favor of the Secured Parties under the DIP Order or Intermediation Order.

“Parent” means Vertex Energy, Inc., a Nevada corporation, as debtor and debtor-in-possession.

“Participating Hedging Debtors” means the Participating Hedging Debtors (as defined in Intermediation Order).

“Permitted Priority Liens” means the Permitted Priority Liens (as defined in the DIP Order or as defined in the Intermediation Order).

“Pre-Petition Intermediation Facility Adequate Protection Claims” means Pre-Petition Intermediation Facility Adequate Protection Claims (as defined in the Intermediation Order).

“Pre-Petition Liens” means the Pre-Petition Liens (as defined in the DIP Order).

“Pre-Petition Loan Obligations” means the Pre-Petition Loan Obligations (as defined in the DIP Order).

“Pre-Petition Term Loan Adequate Protection Liens” means the “Pre-Petition Term Loan Adequate Protection Liens” (as defined in the DIP Order).

“Pre-Petition Term Loan Adequate Protection Super-Priority Claims” means the Pre-Petition Term Loan Adequate Protection Super-Priority Claims (as defined in the DIP Order).

“Proceeds” means “proceeds” as defined in the UCC.

“Secured Parties” means DIP Secured Parties, the Hedge Provider and the Intermediator.

“Shared Collateral” means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by Vertex Refining and Parent (solely with respect to business interruption insurance policies maintained by Parent) thereby or arising and wheresoever located, including all accessions thereto and products and proceeds thereof (other than Excluded Property) in or upon which a Lien is granted by a Debtor with the priorities as set forth in Exhibit 3. For the avoidance of doubt and notwithstanding anything to the contrary herein, Shared Collateral constituting Intermediation Facility Priority Collateral shall not include Intermediation Title Property.

“Shell Superpriority Claims” means the Shell Superpriority Claims (as defined in Intermediation Order).

“Superpriority Hedging Claims” means the Superpriority Hedging Claims (as defined in Intermediation Order).

“Supporting Obligations” means “supporting obligations” as defined in the UCC.

“UCC” means the Uniform Commercial Code as adopted and in effect in the State of New York, as amended from time to time; provided, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, any Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“Vertex Refining” means Vertex Refining Alabama, LLC, a Delaware limited liability company, as debtor and debtor-in-possession.

EXHIBIT 5

**Exhibit 5 to the Interim Order (the Shell Support Agreement)
is incorporated herein by reference**