

To Kinder Morgan New (or Renewing) Carriers:

This notice is to inform you that Kinder Morgan Inc. and KM Phoenix Holdings, LLC. Requires all paperwork listed below in order to access the terminal rack system, please send the following documents to Carrier Request by email at Carrier_Request@kindermorgan.com

- Carrier Access Agreement (filled out & signed)
- Security Plan Acknowledgement (signed)
- W9 (The carrier name and FEIN must match exactly to the one written on the agreement)
- Certificate of insurance (must meet the requirements outlined in the carrier access agreement)
- Trailer Vapor, Wet tests, and the KM probe form (attached is a blank one)
- Once I receive these & Risk Management approves, the drivers will need to contact the terminal for driver training

Please check the terminals you would like access to for KMPH:

- Richmond Products (CA)

Thank you,

Carrier Request

MOTOR CARRIER ACCESS AGREEMENT – U.S.

IN CONSIDERATION OF **Kinder Morgan Phoenix Holdings, LLC (“KMPH”)** granting to the undersigned Motor Carrier, the Owners and Operators of trucks, regulated by the U.S. Department of Transportation, (“**Motor Carrier**”), the privilege of access to **KMPH Terminal (“Terminal”)**, and permission for the Motor Carrier’s representatives to perform loading and/or unloading operations thereon and all acts incidental thereto in accordance with **KMPH’s** rules, regulations, and instructions, as provided by local terminal personnel (which may be revised from time to time), the Motor Carrier and **KMPH** hereby agree as follows:

Each of **KMPH** and Motor Carrier are sometimes referred to herein as “Party” and collectively as “Parties”.

MOTOR CARRIER WAIVES ANY CLAIM FOR AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS **KMPH**, ITS PARENT, SUBSIDIARIES, AND AFFILIATES AND ITS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS AND CONTRACTORS OF ANY TIER (“**KM INDEMNITEES**”) FROM AND AGAINST ALL CLAIMS ARISING FROM DAMAGE OR LOSS, INCLUDING PERSONAL INJURY, DEATH, VIOLATION OF ANY LAW, RELEASE OF ANY HAZARDOUS MATERIAL, PROPERTY DAMAGE, FINES AND PENALTIES (CIVIL OR CRIMINAL) AS WELL AS ANY OTHER LOSSES, CAUSES OF ACTION, SUITS, COSTS, LIABILITY, AND EXPENSES OF ANY AND EVERY KIND INCLUDING PENALTIES, COST OF LITIGATION, COURT COSTS, AND REASONABLE ATTORNEY’S FEES (COLLECTIVELY, THE “**LOSSES**”) WHICH IN ANY WAY RELATE TO THE PERFORMANCE OF THIS AGREEMENT FROM (I) A WRONGFUL OR NEGLIGENT ACT OR OMISSION OF THE MOTOR CARRIER, ITS EMPLOYEES, AGENTS, REPRESENTATIVES OR CONTRACTORS OF ANY TIER (INCLUDING, BUT NOT LIMITED TO, ANY OF SUCH PERSONS TRANSPORTING COMMODITIES, PRODUCTS OR ADDITIVES (COLLECTIVELY “**PRODUCT**”) TO OR FROM THE TERMINAL) (“**MOTOR CARRIER AGENTS**”) OR (II) A FAILURE TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS OF THE MOTOR CARRIER OR MOTOR CARRIER AGENTS.

Furthermore, Motor Carrier shall release **KMPH Indemnitees of any liability for, and shall protect, defend, and indemnify KMPH Indemnitees without limit and without regard to the cause or causes thereof, EXPRESSLY INCLUDING INDEMNITY FOR THE SOLE OR CONCURRENT NEGLIGENCE OF KMPH INDEMNITEES, but excepting any claim, demand, or cause of action arising out of gross negligence, reckless disregard or willful misconduct on the part of any KMPH Indemnitees, which arises in connection with performance of this Agreement in favor of Motor Carrier’s employees (including leased employees), agents, and subcontractors and their respective employees, on account of damage to property, bodily injury or death. Motor Carrier’s indemnity obligation under this paragraph shall be without regard to and without any right to contribution from any insurance maintained by or providing any coverage to KMPH Indemnitees.**

KMPH SHALL INDEMNIFY AND HOLD MOTOR CARRIER HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, CAUSES OF ACTION, SUITS, AND LIABILITY WHICH ARE CAUSED BY OR RESULT FROM THE SOLE NEGLIGENT OR WILLFUL ACTS OR OMISSIONS OF KMPH, ITS EMPLOYEES, AGENTS, OR REPRESENTATIVES. THIS INDEMNITY PROVISION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Furthermore, **KMPH shall release Motor Carrier of any liability for, and shall protect, defend, and indemnify Motor Carrier without limit and without regard to the cause or causes thereof, EXPRESSLY INCLUDING INDEMNITY FOR THE SOLE OR CONCURRENT NEGLIGENCE OF MOTOR CARRIER, but excepting any claim, demand, or cause of action**

arising out of gross negligence, reckless disregard or willful misconduct on the part of KMPH, which arises in connection with performance of this Agreement in favor of KMPH's employees (including leased employees) and agents on account of damage to property, bodily injury or death. KMPH's indemnity obligation under this paragraph shall be without regard to and without any right to contribution from any insurance maintained by or providing any coverage to Motor Carrier.

Consequential Damages

UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES WHETHER SOUNDING IN CONTRACT OR IN TORT.

Insurance

In addition to the foregoing and in no way limiting the indemnity or being limited by the indemnity but as a separate obligation, Motor Carrier agrees to provide at Motor Carrier's expense and to keep in force during the term of this Agreement the following insurance from insurers with an A.M. Best rating of not less than A-/VIII: 1) Statutory Workers' Compensation including not less than \$1,000,000 per employee/accident/disease coverage for Employers' Liability; 2) Commercial General Liability Insurance with a limit of not less than \$1,000,000 per occurrence combined single limit bodily injury and property damage liability, which shall be endorsed to provide contractual liability coverage; 3) Business Automobile Liability Insurance covering liability arising out of any auto (owned, hired and non-owned), with a combined single limit of not less than \$1,000,000. If the work contemplated by this Agreement includes the transportation of hazardous materials, the policy shall include an MCS-90 endorsement in accordance with state and Federal laws;

FOR HAZARDOUS MATERIALS (i.e. crude, gasoline, jet fuel, etc.): Umbrella Insurance with a minimum limit of not less than \$5,000,000 per occurrence; **OR**;

FOR BULK PRODUCTS: Umbrella Insurance with a minimum limit of not less than \$5,000,000 per occurrence.

Such Umbrella policy shall follow the form of the Employer's Liability Insurance, Commercial General Liability Insurance and Business Automobile Liability Insurance set out above, be in excess of those underlying policies without gaps in limits and provide coverage as broad as those underlying policies.

All above-mentioned policies shall (without limit or exception): 1) include a waiver of subrogation in favor of Kinder Morgan, Inc. and **KMPH**, and 2) except for Workers' Compensation name Kinder Morgan, Inc. and **KMPH** as an additional insured. All insurance policies provided by Motor Carrier shall include coverage for any and all claims, liability or damages arising under the terms of this Agreement. Any contractor policies shall be endorsed with the waiver of subrogation and additional insured and carry the same limits of coverage as Motor Carrier. Any deficiency in the coverage, policy limits, or endorsements of said contractors will be the sole responsibility of Motor Carrier.

All coverage provided to the additional insureds under this Agreement shall be primary and non-contributory with any insurance or self-insurance maintained by the additional insureds. Any deductibles or retentions applicable to the above policies shall be borne entirely by Motor Carrier.

Proof of Insurance

At the same time of execution of this Agreement, Motor Carrier will furnish an insurance certificate or certificates on forms reasonably satisfactory to **KMPH** evidencing the coverage required above and providing that no insurance will be terminated or cancelled without thirty (30) days prior written notice to **KMPH**. Certificates providing evidence of renewal of coverages shall be furnished prior to policy expiration. Failure to enforce this provision shall not be considered as waiving the insurance required herein.

Pollution Prevention and Responsibility

In the event an escape or discharge from Motor Carrier while it is at the Terminal and which causes or threatens to cause pollution damage, the Motor Carrier will promptly take whatever measures are necessary to prevent or mitigate such damage or remove the threat. The Motor Carrier hereby authorizes the Terminal, or its nominee, upon notice to the Motor Carrier, to undertake, at the Terminal's option, such measures as are reasonably necessary to prevent or mitigate the pollution damage or remove the threat. The Terminal or its nominee shall keep the Motor Carrier advised of the nature and results of any such measures taken, and if time permits, the nature of the measures intended to be taken. Any of the aforementioned measures shall be the responsibility of the Motor Carrier.

Terminal Access

For automated terminals, a security card system is used at the Terminal. A Terminal access card has been issued to certain truck drivers designated by Motor Carrier for such drivers that have successfully completed the orientation requirements established by the Terminal Supervisor. For truck drivers without such access cards, a Terminal access card will be issued to truck drivers designated by Motor Carrier when the driver has successfully completed the orientation requirements established by the Terminal Supervisor. Drivers will be expected to complete qualification within three (3) weeks of beginning of orientation. Failure to do so will require Motor Carrier to resubmit all necessary documentation for that driver, should they wish orientation to continue. Drivers not accessing the Terminal within any six (6) month period may be locked out and will need to requalify to renew access privileges. Any driver not active in this facility for a period of one (1) year may be completely eliminated from system files. Motor Carrier takes full responsibility for its designated driver's actions. Motor Carrier shall be liable for any PRODUCT taken from the Terminal when a security card issued to one of his designated drivers is used in obtaining the PRODUCT at the Terminal whether taking such PRODUCT was authorized specifically by Motor Carrier or not.

For all other terminals, drivers will sign in at the designated security gate and will be provided instructions from terminal operations personnel on how to proceed. Drivers will not be permitted to enter the terminal without the proper identification required by the terminal. This identification requirement should be confirmed with the terminal prior to arrival to avoid delays. Truck drivers designated by Motor Carrier upon request must successfully complete the orientation requirements established by the Terminal Supervisor.

Terminal's Right to Order Removal

Nothing herein will be construed to deny or otherwise limit Terminal's right to refuse entry to, or to remove immediately from the Terminal, any person, equipment, or truck of Motor Carrier, which, in the sole discretion of **KMPH**, poses a hazard or threat to the Terminal.

Damage to Motor Carrier's Equipment

In the event the Motor Carrier's equipment is damaged while on **KMPH** premises, the driver must notify **KMPH**'s local personnel prior to Motor Carrier leaving **KMPH**'s premises. **Should driver fail to provide such notification, it shall constitute a waiver of the right to make any claim against KMPH for such damage.**

Transfer of Custody of the PRODUCT

(a) Motor Carrier agrees that the transfer of custody of the PRODUCT occurs at the point of KM Entity hose connection to the Motor Carrier truck.

(b) Motor Carrier assumes responsibility for PRODUCT quality beyond that point where it takes custody, should it differ from the PRODUCT quality of the sample taken from the tank delivering PRODUCT to the loading point.

Regulatory Compliance

Motor Carrier shall comply with all applicable Department of Transportation (DOT) requirements and has provided each truck/trailer unit of Motor Carrier with a current Emergency Response Guidebook. Motor Carrier warrants that any truck entering the Terminal shall comply with all applicable federal, state, and local laws and regulations. If any Motor Carrier fails to comply with such laws and regulations, the person, equipment, or truck of Motor Carrier may be required to vacate the Terminal.

Agreement

This Motor Carrier Access Agreement supersedes any prior agreement between the Parties herein regarding access to the Terminal.

In the exercise of the privileges and rights herein granted, Motor Carrier and Motor Carrier Agents shall not in any event, nor for any purpose whatsoever, be deemed to be the agent, servant or employee of **KMPH**.

Motor Carrier agrees that the remedies provided in this Agreement shall be its sole and exclusive remedy for any claims related to the activities undertaken in connection with this Agreement, and Motor Carrier hereby waives any other rights it may have, whether available by statute, regulation, common law or otherwise. The Motor Carrier agrees it will not bring any claim or additional causes of action or seek any remedy other than those expressed herein against **KMPH**.

Applicable Law and Dispute Resolution

(a) This Agreement shall be deemed to have been made and accepted in Harris County, Texas, and the laws of Texas (without giving effect to Texas' choice of law rules and to the extent permitted by applicable law) shall govern any interpretations or constructions of this Agreement.

(b) Dispute Resolution: Any dispute between **KMPH** and Motor Carrier arising from or related to this Agreement shall be resolved first through discussions among upper management of the Parties, and if the dispute cannot be resolved within forty-five (45) days from the date the matter was first brought by the disputing Party to the attention of the other Party, then either Party may elect to resolve the matter through litigation which shall be brought in any federal or state court sitting in Harris County, Texas, having jurisdiction thereof, **KMPH** and Motor Carrier each shall submit to the exclusive jurisdiction of said courts and waives the right to change venue. The costs and expenses of the litigation (including attorneys' fees) of the prevailing Party will be borne by the other Party.

EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT.

KMPH may terminate this Agreement at any time with written notice to Motor Carrier. All notices under this Agreement shall be in writing and shall be effective upon receipt in the United States mail, postage prepaid, registered or certified with return receipt requested, or transmitted by facsimile or courier with applicable charges prepaid, or by electronic mail (email). The Motor Carrier’s email address or the physical address as set forth below will be deemed valid and sufficient for any notice, demand, request or communication from **KMPH** to Motor Carrier.

Date:		SCAC Code:	
Carrier Name:		EIN (#):	
Address:		Signature By:	
Phone:		Name:	
Email:		Title:	

Date:

Kinder Morgan, Inc.
And KM Phoenix Holdings LLC
1001 Louisiana Street, Suite 1000
Houston, TX 77002

Subject: DOT 49CFR172 Security Plan Carrier Acknowledgement Letter

This letter acknowledges that **(Insert Carrier Name)** has a written security plan in place as required by 49 CFR 172.802, which addresses:

49 CFR 172.802 (a) (3) *En route security*. Measures to address the assessed security risks of shipments of hazardous materials covered by the security plan en route from origin to destination, including shipments stored incidental to movement.

Sincerely,

Print Name

Signature



ANNUAL TANK TRAILER INSPECTION FORM

Vehicle Owner/Operator

Mailing Address

Unit/Equipment Number _____ Manufacturer _____

VIN Number _____ MC/DOT Spec # _____

Brand/Model Overfill System _____

Notice to testing Company: All probes must be set to allow a minimum of a 60 gallon outage from the probe level to the overflow level. No dummy probes or bypass allowed on trailer.

Compartment Capacity						
Compartment Capacity	1	2	3	4	5	6

Maximum Allowable Capacity						
Capacity - 60 Gallons	1	2	3	4	5	6

Probes Tested						
Probe setting allows 60 gallon Outage Y/N	1	2	3	4	5	6

Probe Wet Test						
Probe Passed Wet Test Y/N	1	2	3	4	5	6

Trailer inspected for bypass system and dummy probes Y/N _____ Passed Y/N _____

Loading connection and vapor hose brake interlocks tested OK. Y/N _____

INSPECTION COMPANY CERTIFICATION

Company Name _____ Phone _____

Test conducted by _____ Date _____

Name

Signature

These requirements need to be correct on the certificate:

1. **Additional Insured:** Certificate Holder needs to be named additional insured on all required policies.
2. **Waiver of Subrogation:** Certificate Holder needs a waiver of subrogation on all required policies.
3. **General Liability, Auto Liability, and Work Compensation:** The Carrier Access Agreement requires \$1MM of coverage. The total for each coverage needs to be \$6MM
4. **Umbrella Liability:** The Carrier Access Agreement requires \$5MM of Umbrella Liability coverage. The total for each coverage needs to be \$6MM.
5. **Certificate Holder:** Certificate Holder should read: **Kinder Morgan Inc., and KM Phoenix Holdings LLC.,** 1001 Louisiana St., Suite 1000, Houston, Texas 77002.
6. **Umbrella or Excess:** Statement needed that states, "Umbrella/Excess policy follow form of underlying policies with regard to additional insured and waiver of subrogation".
7. **Per Statute:** Need to have the "PER STATUTE" box on the workers comp row checked.