



**PETRO-CANADA AMERICA LUBRICANTS INC.
STANDARD TERMS AND CONDITIONS OF SALE – U.S.A.**

As may be amended from time-to-time by Petro-Canada America Lubricants Inc.

Definitions

"Sales Contract" ("**Executed Contract**") means a written document signed by the parties by which Petro-Canada America Lubricants Inc., a Delaware corporation, having an office at One Magnificent Mile, 980 North Michigan Avenue, Suite 1400, #1431, Chicago, IL. 60611 ("PCA"), agrees to sell, and the Customer agrees to purchase, lubricants and other products (collectively "Product") in accordance with specified conditions.

"Delivered" and its variants, as used herein, means Product picked-up by or on behalf of Customer from PCA, or Delivered by or on behalf of PCA to Customer.

1. INTENT AND REFERENCE

Unless there is an Executed Contract and/or other signed agreement between PCA and Customer (in which event, and to the applicable extent, the terms of the Executed Contract and/or other signed agreement shall apply), Customer acknowledges and agrees that PCA shall sell Product to Customer and Customer shall purchase and take Delivery of Product from PCA in accordance with these Standard Terms and Conditions of Sale – U.S.A. (collectively these "Terms"). The purchase of any Product by Customer shall constitute Customer's agreement with and acceptance of these Terms.

Any reference to PCA or Customer in these Terms shall include each of their respective affiliates, directors, officers, employees, agents, subcontractors and representatives, but does not include the other party in any of these references.

2. PRODUCT AND PRICES

PCA may, from time-to-time, discontinue the sale of any Product; and/or change the manufacturing specifications of any Product; and/or change, discontinue or replace any Product trademarks or any services offered in connection with the Product. Prices shall be provided by PCA to Customer and shall be as specified on the invoices for Product purchased and shall be exclusive of all federal, state, territorial, municipal and local sales, use and excise taxes. Customer shall pay all such taxes directly to PCA in addition to the price, unless and to the extent Customer furnishes a valid exemption certificate. Prices shall be subject to change upon notice.

In addition, Customer shall pay or reimburse PCA for any other tax, levy, handling charge, operating cost or other financial charge assessed or arising from, or paid or incurred directly or indirectly by PCA for the purposes of or in connection with, the sale or supply of the Product or for the recovery, recycling or reclamation of the Product after its use and arising from any federal, state, territorial, municipal or local law, regulation, order, decree or by-law, including any environmental law, regulation, order, decree or by-law, that is in force at the time Customer purchases the Product. Without limiting the generality of the foregoing, this method for payment and reimbursement shall apply to any charge paid to or collected by an organization whose function or one of whose functions is to develop or implement or administer or to contribute financially towards the development or implementation or administration of one or several systems or programs to recover, recycle or reclaim used Product after the use of the Product. Changes to the application and/or to the amount of any tax, levy, handling charge, operating cost or other financial charge shall be reflected on PCA's invoices as of the effective date of the change.

3. PRODUCT QUALITY; WARRANTY DISCLAIMERS; CLAIMS; EXCLUSIVE REMEDIES

PCA warrants to Customer that, upon Delivery, Product conforms to PCA's specifications applicable to such Product at its date of manufacture. PCA reserves the right to maintain some or all of the manufacturing specifications confidential for competitive and business reasons. However, upon request by Customer, PCA shall provide Customer with information regarding the typical qualities, characteristics, or values (collectively "Values") for the Product in normal production. Samples, if any, are supplied solely to exemplify the typical Values for the Product at the time of manufacture of such sample. Sale is not by sample and no warranty is made that the particular Values for any Delivery of the Product shall match the particular Values for any sample of the same Product. PCA disclaims any warranty of conformity of Product Delivered to any such sample.

ANY CLAIMS BY CUSTOMER FOR DEFECT (WHICH TERM INCLUDES ANY BREACH OF WARRANTY), VARIANCE IN QUALITY OR SHORTAGE IN QUANTITY SHALL BE MADE PROMPTLY BY PHONE, AND THEN BY FACSIMILE, ELECTRONIC MAIL, INTERNET OR LETTER. PCA SHALL BE GIVEN AN OPPORTUNITY TO INSPECT THE ALLEGED DEFECT, VARIANCE OR SHORTAGE. FAILURE BY CUSTOMER TO NOTIFY PCA OF SUCH CLAIM WITHIN THE TIME SPECIFIED IN THE APPLICABLE PCA POLICY, OR OTHERWISE WITHIN A REASONABLE PERIOD OF TIME, SHALL OPERATE AS A WAIVER OF ANY AND ALL SUCH CLAIMS BY CUSTOMER, WHETHER FOR DEFECT, VARIANCE OR SHORTAGE. PCA'S LIABILITY SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PARTICULAR DELIVERY OF PRODUCT WITH RESPECT TO WHICH CLAIM IS MADE AND PCA SHALL HAVE THE OPTION OF REPLACING THE PRODUCT RATHER THAN MAKING PAYMENT OF THE PURCHASE PRICE OF THE PARTICULAR PRODUCT. HOWEVER, PCA SHALL REPAIR DAMAGED EQUIPMENT OR REPLACE DAMAGED EQUIPMENT PARTS RESULTING FROM A FAILURE DUE TO DEFECTS IN THE PRODUCT, PROVIDED THE PRODUCT IS USED IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE EQUIPMENT MANUFACTURER AND PCA. THE REMEDIES PROVIDED IN THIS SECTION 3 SHALL BE CUSTOMER'S EXCLUSIVE REMEDIES FOR ANY CLAIMS FOR DEFECT (INCLUDING BREACH OF WARRANTY), VARIANCE IN QUALITY OR SHORTAGE IN QUANTITY.

PCA MAKES NO REPRESENTATIONS OR WARRANTIES (EXPRESS, IMPLIED, STATUTORY OR OTHERWISE) OTHER THAN THE EXPRESS WARRANTY AS SET OUT IN THESE TERMS. PCA EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES (EXPRESS, IMPLIED, STATUTORY OR OTHERWISE) INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4. DISCLAIMER OF LIABILITIES

NOTWITHSTANDING ANY OF THE OTHER TERMS, NEITHER PARTY SHALL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFITS, AS A CONSEQUENCE OF THE PERFORMANCE OR NON-PERFORMANCE OF THESE TERMS, THE TERMINATION OF ANY FURTHER PRODUCT SALES AND PURCHASES BETWEEN PCA AND CUSTOMER, ANY DEFECT OR NON-COMPLIANCE WITH OR BREACH OF ANY SPECIFICATION OR WARRANTY, OR ANY OTHER CLAIM OR DEMAND ARISING OUT OF OR IN CONNECTION WITH THE SUBJECT MATTER OF THESE TERMS.

5. RESALE OF PRODUCT

CUSTOMER AGREES THAT PRODUCT SOLD AND DELIVERED TO CUSTOMER SHALL NOT BE RESOLD BY CUSTOMER UNDER TRADEMARKS, TRADE NAMES OR BRANDS OF PCA. IN THE EVENT CUSTOMER CHOOSES TO RESELL ANY OF THE PRODUCT PURCHASED BY CUSTOMER FROM PCA, IT DOES SO ENTIRELY AT ITS OWN RISK AND WITHOUT BENEFIT OF ANY WARRANTY OR REPRESENTATION AS TO QUALITY OR SPECIFICATIONS BY PCA.

6. PRODUCT MEASUREMENT AND PURCHASE QUANTITIES

The quantities of Product Delivered to Customer by PCA shall be determined by the appropriate meters, weigh scales, tank gauge, or other methods of measurement used in the normal practices by or on behalf of PCA, or, if packaged Product, by the actual number of containers Delivered to Customer. Where Deliveries are made in bulk, Deliveries within ten percent (10%) of amounts ordered by Customer shall be deemed sufficient Delivery by PCA; provided, however, only the actual amounts of Product Delivered shall be paid for by Customer. Notwithstanding the preceding sentence, where PCA provides specialty bulk services to Customer (including, without limitation, if Product is subject to a minimum size order), Customer shall pay for the full amount of Product ordered and made available, even if it exceeds the actual amount of Product that Customer is able to receive on the scheduled Delivery date.

7. PRODUCT TITLE AND RISK

Risk of loss or damage to and control of the Product shall pass to Customer where the Product is Delivered to Customer, when the Product enters into or upon the receiving equipment (including, but not limited to, pipe, tank, vehicle, marine or stationary vessel, loading or unloading dock, warehouse, other facility) provided by Customer. Title to the Product shall pass to Customer simultaneously with risk of loss, unless otherwise stated in a signed agreement between PCA and Customer.

8. ORDERS, DELIVERIES AND RETURNS

All Product orders, Deliveries and returns shall be subject to the terms and conditions of PCA's applicable policies, as amended, and as provided or otherwise made available to Customer.

9. CREDIT AND PRODUCT PAYMENT

- (a) PCA shall complete an appropriate credit review of Customer (which it may update from time-to-time), to which Customer consents by completing and signing a credit application. Based on the credit review, PCA shall determine whether credit shall be provided to Customer, with such terms of credit as follows, as amended from time-to-time. If PCA does not provide credit, payment terms shall be as described in paragraph (d) below.
- (b) From time-to-time upon request by PCA, and within three (3) days after such request, Customer shall provide such information as PCA may request for its use to determine whether to continue extensions of credit to Customer. If Customer fails to provide proof of creditworthiness in a form acceptable to PCA, or if PCA determines that it no longer shall extend credit to Customer in PCA's sole discretion, payment terms shall be as described in paragraph (d) below.
- (c) PCA reserves the right to withdraw or revise credit terms previously extended to Customer at any time, acting reasonably. In the event that credit terms are withdrawn by PCA, payment terms shall be as described in paragraph (d) below.
- (d) If PCA does not provide credit, payment terms shall be prepaid Deliveries. Alternatively, PCA, in its sole discretion, shall provide credit to Customer if Customer provides PCA with satisfactory security for Customer's payment obligations.
- (e) PCA shall be entitled to withdraw credit and to insist on payment in advance if Customer places an order for Product, fuels or other products with PCA (or any of its affiliates), with a value that would put the account in excess of the credit limit agreed to by PCA from time-to-time.
- (f) Customer agrees to pay for Product in accordance with the credit terms and conditions notification, as provided to Customer from time-to-time by PCA's Credit department. Overdue amounts shall be subject to a late payment interest charge, at the lesser of (i) 24% per annum (daily rate 0.06575%) or (ii) the maximum annual rate or percentage lawfully permitted by applicable law, from the due date until payment is made in full. The late payment interest charge may be altered from time-to-time by PCA, but in no event shall the charge exceed the maximum amount, or be at an annual rate or percentage in excess of the maximum annual rate or percentage, lawfully permitted by applicable law.
- (g) If Customer fails to pay on the due date any amount which is payable to PCA, then PCA may suspend Deliveries of the Product until all outstanding amounts have been received by PCA from Customer. PCA shall be entitled to set off any amounts owing by PCA (or any of its affiliates) to Customer under any agreement(s) between such parties against any amounts owing by Customer to PCA under these Terms.
- (h) If PCA determines that the financial condition of Customer or Customer's guarantor (if any) has become unsatisfactory, or for any other reason PCA determines it necessary to obtain adequate assurances of Customer's financial responsibility, PCA may, in its sole discretion and upon prior written notice to Customer, require Customer to provide PCA with satisfactory security for Customer's payment obligations.
- (i) If Customer's average monthly purchases, including taxes and other charges, shall exceed \$25,000 U.S. or equivalent, PCA requires, on an annual basis, the submission of Customer's complete audited financial statements for the fiscal year-end.

10. PERFORMANCE DEFAULT AND TERMINATION

- (a) PCA may suspend or terminate further Deliveries of Product to Customer immediately and without notice if Customer:
 - i. commits a material breach of these Terms and fails to remedy such breach to PCA's satisfaction within fifteen (15) days from notification in writing, or, as to any failure to pay amounts hereunder when due, fails to make such payment in full within five (5) days from written demand for payment; or
 - ii. becomes bankrupt or insolvent, seeks the benefits of, or is the subject of any voluntary or involuntary petition for relief as a debtor under the federal Bankruptcy Code or under any other state or federal statute, law or act at the time in force regarding bankrupt or insolvent debtors, or makes any assignment for the benefit of its creditors or any proposal to its creditors for compromise or relief from debts; or
 - iii. breaches or fails to comply in any material respect with any law or regulation applicable to it or its business or operations; or

- iv. engages or has engaged in a fraudulent, unsafe, or deceptive business practice; or
- v. acts or has acted in a manner PCA determines, acting reasonably, to be detrimental to its image; or
- vi. enters into any contract or obligation on behalf of, or that would obligate, PCA without its prior written authorization.

(b) The provisions of this Section 10 are cumulative of other provisions of these Terms regarding rights of termination, and are not in limitation of, and are not limited by, such other provisions.

11. TERMINATION RIGHTS AND OBLIGATIONS

The termination of any further Product sales and purchases between PCA and Customer ("Termination") shall be without prejudice to any rights or obligations which may have arisen between the parties prior to the date of Termination, including, without limitation, PCA's right to payment for Product already Delivered to Customer or to payment for or recovery of any other costs or expenses incurred by PCA for the Delivery of Product to Customer, and shall not relieve either party from its obligations which may have arisen prior to the date of Termination. In case of Termination, PCA shall have the right to cancel any non-completed Deliveries of Product to Customer. In addition to the exclusions of liability under Section 4 above, PCA shall not be held liable for damages or loss of profits on account of Termination. Customer shall make no claim against PCA for compensation or payment of goodwill upon Termination. Upon Termination, PCA shall have no other liability towards Customer. Sections 3, 4, 5, 6, 7, 8, 9, 11, 14, 17, 19 and 20 shall survive Termination.

12. FORCE MAJEURE

(a) For the purposes of these Terms, "Force Majeure" means a strike, lock-out, work stoppage or slow down or other labor dispute, popular uprising, sabotage, riot, rebellion, seizure, insurrection, act of terrorism, act of God, fire, storm, flood, war, accident, embargo, hostilities, explosion, perils of navigation, breakdown of or damage to any facilities, machinery or equipment (due to any cause or reason whatsoever) used to manufacture, obtain, store or distribute the Product, an act of any government, or any other event beyond the reasonable control of one party (whether similar or dissimilar to the causes specifically listed), as well as the specific circumstances referenced in the following paragraph.

In addition to the foregoing, the parties agree that any inability by PCA to obtain, supply, sell or Deliver Product, in whole or in part, due to (i) a reduced or inadequate supply of raw materials, petroleum products, or crude petroleum, (whether at the level of PCA's internal supply, PCA's habitual sources of supply, the supply of the industry in general, or by reason of governmental regulations or orders regarding the distribution of products including the Product), (ii) a shutdown, temporary closure or the loss of use of all or part of any facilities, machinery or equipment used to manufacture, obtain, store or distribute the Product, or a reduced or inadequate capacity to refine or manufacture the Product, or (iii) PCA's inability to acquire materials or services on economically reasonable terms, constitutes an event of Force Majeure as defined for purposes of these Terms. Except as regards any obligations for the payment of monies, neither party shall be liable for any non-performance, omission or delay in the performance of its obligations pursuant to these Terms if such non-performance, omission or delay is attributable to an event of Force Majeure as defined above.

(b) If, due to an event of Force Majeure, either party is unable to perform its obligations pursuant to these Terms, the performance of such obligations to the extent it is affected by the event of Force Majeure, except as regards any obligations for the payment of monies, shall be suspended for the duration of the event of Force Majeure only. The party claiming Force Majeure shall notify the other party of the situation as soon as possible and shall also communicate all reasonable details to the other party. The party seeking the suspension of its obligations shall, as soon as possible, remedy the cause and consequences of the event of Force Majeure insofar as it is able to do so; however, terms of settlement of any strike, lock-out or other labor dispute shall be at the discretion of the party seeking the suspension of its obligations on this ground and such party shall not be bound to satisfy the demands of its adversaries in connection with any strikes, lock-outs or labor disputes merely in order to remedy the event of Force Majeure.

13. PCA RIGHT TO ALLOCATE SUPPLY

(a) In the event of a shortage of Product due to an event of Force Majeure, and without any obligation on its part, PCA shall have the right, in such equitable manner as PCA may determine, and according to the availability of its Product, to establish a Product allocation program among its various customers and contracting parties, it being specifically agreed that PCA has the right to prioritize or allocate based on such factors as PCA considers appropriate. The establishment and application of such an allocation program shall not be binding on PCA, nor shall it create obligations towards Customer, and any such program is subject to change by PCA. Customer waives any right to make a claim which may flow directly or indirectly from the establishment or application of an allocation program or any shortage of supply no matter what the circumstances. If a dispute arises between the parties with respect to the existence of an event of Force Majeure, it is expressly agreed and accepted by the parties that the foregoing waiver concerning the establishment and application of an allocation program shall apply in the same manner to circumstances that are determined not to constitute an event of Force Majeure.

(b) If for any reason PCA's access to or supplies of Product are curtailed or cut off or are inadequate to meet PCA's obligations to, or the requirements of, its customers and to other parties with whom it has a contractual obligation to supply Product, in circumstances that do not constitute an event of Force Majeure or where PCA has not given notice of an event of Force Majeure, PCA shall further have the right to allocate the available supply equitably in favor of all such customers and contracting parties, subject to PCA having the right to prioritize and allocate based on such factors as PCA considers appropriate.

14. SECRECY

The parties may exchange proprietary and confidential information, including specifications and performance information regarding the Product and uses referred to and provided for by these Terms. Each party agrees not to divulge to any third party any such information supplied by the other without the prior written consent of the other party. Customer undertakes not to analyze or to attempt to determine the constituent components of the materials or the Product supplied by PCA for testing or for other purposes. Customer and PCA agree that, in addition to any other right or remedy to which a party may be entitled, at law or in equity, for any breach of this Section 14, such party shall be entitled to temporary, preliminary and permanent injunctive relief, without any requirement that the party receiving such relief submit proof of economic value or post any bond.

15. NO AGENCY/WARRANTIES

Customer shall have no authority to create or incur any obligation on behalf of PCA and shall not make any representation, express or implied, that it has such authority. PCA shall not be responsible in any way for any debts, contracts, or obligations incurred, made or entered into by or on behalf of Customer without the express prior written authorization of

PCA. Neither these Terms nor the relations between the parties shall constitute or create the relationship of principal and agent or of mandator and mandatary or of partnership or of joint venture between the parties.

Each party covenants and warrants to the other party that it is an entity duly organized, validly existing and in good standing under the laws of its respective jurisdiction, and has the power and capacity to enter into, execute and perform its obligations under these Terms in accordance with the terms and conditions hereof, and that the execution of these Terms shall not result in a breach by such party of any other agreement by which it is bound.

16. COOPERATION AND ASSISTANCE

Each party agrees to execute and deliver, or cause to be executed and delivered, all documents, and do, or cause to be done, any further and other acts or things, that may be necessary to implement and carry out the intent of these Terms.

17. ENTIRE AGREEMENT

These Terms and the credit and payment terms, as may be amended, that are provided by PCA to Customer, constitute the entire agreement between the parties. All representations, conditions, understandings and warranties in respect of the subject matter of these Terms, whether past or contemporaneous, are merged herein or superseded hereby. Other than the credit and payment terms provided by PCA to Customer, no contrary or additional terms and conditions in any form whatsoever shall apply to these Terms, notwithstanding any oral or written statement made or provided by Customer, including, but not limited to, any statement, invoice, sales order, purchase order, or other document or record.

18. HEADINGS

The headings used herein are for purposes of convenient reference only and are not indicative of the content of these Terms.

19. SEVERABILITY AND WAIVER

Should any part or parts of these Terms be found to be illegal or unenforceable, such part or parts shall be severed from these Terms and shall not affect the enforceability of the balance of these Terms. The failure of a party to take any action by reason of any breach, or to exercise any right, shall not constitute a waiver of such right, nor deprive such party of the right to take any action, nor limit or otherwise impair the right of such party to subsequently enforce such provision or exercise such right. The failure of a party to insist in any one (1) instance or more on performance of any of the terms and conditions of these Terms, or to exercise any right or privilege herein conferred, shall not be construed as thereafter waiving any such term or condition.

20. GOVERNING LAW AND COMPLIANCE WITH APPLICABLE LAW

All disputes, controversies, or differences which may arise between the parties out of or in relation to or in connection with these Terms, or the breach thereof, shall, if the parties themselves cannot come to a settlement, be finally settled and governed by the internal laws of the state of New York, by which each party hereto is bound, and excluding conflicts of law provisions that might require application of the laws of another state. The parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods, or any local legislation implementing such Convention, if otherwise applicable. Each party shall comply with the laws and regulations applicable to it or to its business or operations.

21. NOTICES

Any notice given pursuant to these Terms shall be deemed properly given if in writing and (a) delivered by hand (including commercial delivery service), (b) sent by telecommunication (including facsimile and electronic mail), or (c) sent by mail, as follows:

- Notices to Customer: To the address provided by Customer for receipt of invoices from PCA
- Notices to PCA: To the attention of Customer Service at PCA's address stated above

Either party may at any time change its address for service by giving notice to the other party in accordance with this Section. Notice served by hand or by telecommunication shall be deemed to have been given one (1) business day following the date on which such notice is sent. Notice served by mail shall be deemed to have been given five (5) business days following the date on which such notice is postmarked. In the event there is an anticipated or actual postal disruption, notice shall only be given by hand delivery or by telecommunication.