



## PETROLEUM PRODUCT SALES AGREEMENT

This Petroleum Product Sales Agreement ("Sales Agreement") is made by and between PATRIOT FUELING CENTERS USA INC., an Alabama Corporation ("Patriot USA") and \_\_\_\_\_ ("Customer") (each a "Party" and collectively, the "Parties") is made as of \_\_\_\_\_ (the "Effective Date").

For and in consideration of the respective covenants herein contained, the parties agree that, subject to the availability of supply, during the term of this Sales Agreement, Patriot Fueling Centers USA Inc shall make Product available to Customer for purchase under the following terms and conditions:

1. **Term and Termination.** The Term of this Sales Agreement will begin on the Effective Date and continue month-to-month thereafter until terminated by either party.
2. **Products.** Patriot Fueling Centers USA Inc. agrees to make available for purchase certain refined petroleum products or RINs ("Products") on an as-needed and as-available basis. Specific Product offerings will vary depending on Delivery Location.
3. **Delivery Point.** Product may be purchased by Customer at the Vecenergy Terminal, 200 Hunter Loop Road, Montgomery, Alabama and other terminals which may be available in the future.
4. **Contract Quantities.** Customer is under no obligation to purchase, and Patriot USA is under no obligation to supply any specific quantity of Product under this Sales Agreement. In the event the Parties enter into a Sales Agreement for specific contract quantities at specified Delivery Point(s), the terms of that Sales Agreement will supersede the terms of the present Sales Agreement at the Delivery Point(s) specified.
5. **Price.** The price for Product shall be the posted rack price for such Product at the Delivery Point, except as otherwise agreed to by the Parties in writing.
6. **Payment Terms.** Payment terms for Products are Net 10 days from receipt of product at the terminal rack by Electronic Funds Transfer (EFT), except as otherwise agreed to by the parties in writing.
7. **General Terms and Conditions.** Patriot USA's General Terms and Conditions for Wholesale Petroleum Product Transactions ("General Terms and Conditions"), attached as Exhibit A, shall govern this Sales Agreement and are hereby incorporated by reference. All capitalized terms not defined in this Sales Agreement are defined as set forth in the General Terms and Conditions. If a conflict exists between this Sales Agreement and the General Terms and Conditions, the terms set forth in this Sales Agreement shall prevail.
8. **Contact Information.** Either party delivering a notice or a demand that is required or permitted to be given under this Sales Agreement will deliver that notice in accordance with the General Terms and Conditions to the address listed below.

**For Patriot USA:**  
Patriot Fueling Centers USA Inc.  
PO Box 10  
Lineville, Alabama 36266  
Attn: Wholesale Products Division



**Contact Info For Customer:**

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**Accepted by authorized representatives:**

**Customer**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Patriot Fueling Centers USA Inc.**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



## Exhibit A

### GENERAL TERMS AND CONDITIONS FOR WHOLESALE PETROLEUM PRODUCT TRANSACTIONS

These **General Terms and Conditions** for Wholesale Petroleum Product Transactions are incorporated by reference into the applicable Sales Agreement between Patriot Fueling Centers USA Inc. ("Patriot USA" or "Seller") and Customer (such Sales Agreement, and, collectively with these General Terms and Conditions, this "**Agreement**"). Patriot USA and Customer may be referred to herein, individually, as a "**Party**" and, collectively, as the "**Parties**".

#### 9. Structure.

- a. Entire Agreement. This Agreement, together with any electronic funds transfer authorization agreement, terminal access agreement, credit application, or contract confirmation, contain the entire agreement of the Parties with respect to the subject matter hereof and thereof, and supersede all prior discussions, understandings, representations, warranties, covenants and agreements between the Parties with respect to the subject matter hereof and thereof. For the avoidance of doubt, any order, proposal, invoice, statement, published rate schedule or other type of memoranda or attachment of Customer, whether written or oral, shall not govern the relationship between the Parties.
- b. Conflict. Any provision in the Sales Agreement shall control any conflict between any provision in the Sales Agreement and any provision in these General Terms and Conditions.
- c. Definitions. All capitalized terms used, but not defined, shall have the meanings set forth in the Sales Agreement.

"**Affiliate**" means, with respect to any Person, any other Person, directly or indirectly, controlling, controlled by, or under common control with such Person. For purposes of this definition, "control" means, with respect to any Person, the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Applicable Law**" means any applicable statute, law, regulation, ordinance, rule, judgment, rule of law, order, decree (including any consent decree), permit, approval, license, requirement, or other governmental restriction of, and any determination by, any Governmental Authority having or asserting jurisdiction over the matter in question.

"**Barrel**" means 42 Gallons.

"**Business Day**" means a day other than a Saturday or Sunday when Federal banks are open for business in New York City, New York.

"**Carrier**" means any truck, railroad or barge, ocean-going or other marine vessel receiving Product on behalf, at the request, or for the benefit, of Customer (or any Person receiving Product from Customer).

"**Customer**" is defined in the Sales Agreement.

"**Credit Support Provider**" means a guarantor, issuer or other Person providing Performance Security on behalf of Customer pursuant to this Agreement.

"**Effective Date**" is defined in the Sales Agreement.

"**EPA**" means the U.S. Environmental Protection Agency, and any successor thereto.

"**Gallon**" means a United States gallon containing 231 cubic inches at 60 degrees Fahrenheit.

"**Governmental Authority**" means any federal, state, local or foreign government, any provincial, departmental or other political subdivision thereof, any body or authority exercising executive, legislative, judicial, regulatory, administrative or other governmental functions, any court, any department, commission, board, bureau, agency, instrumentality or administrative body of any of the foregoing and any arbitrator with jurisdiction.



“**Group**” means (a) with respect to Patriot USA, Patriot USA Group, or Patriot Fueling Centers USA Inc and (b) with respect to Customer, Customer Group.

“**Liability**” means any liability, damage, loss, cost, expense, penalty, claim, award or judgment (including third-party or intra-party claims, reasonable fees or expenses of attorneys, consultants, accountants or other agents or experts, and costs of investigation, monitoring or any settlement).

“**Person**” means an individual, corporation, limited liability company, partnership (general or limited), trust, business trust, unincorporated association, Governmental Authority or any other entity of whatever nature.

“**Product**” is defined in the Sales Agreement.

“**Contract Quantity**” is defined in the Sales Agreement.

“**Delivery Point**” is defined in the Sales Agreement.

“**Force Majeure**” means any event or occurrence beyond the reasonable control of the claiming Party that prevents in whole or in part the performance by such Party of any obligation under this Agreement, including, to the extent satisfying the foregoing, acts of God, strikes, lockouts, or other industrial disturbances; acts of Governmental Authorities or the public enemy; wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, explosions or other casualty, hurricanes, hurricane warnings, storms, floods, washouts, arrest and restraints of government (federal, state, local, civil or military) or of people, or civil disturbances; accidents at, closing of, or restrictions upon any Facility; disruption or breakdown of or explosions or accidents to any refinery producing or pipeline or other equipment transporting any Product to any Facility; any reduction in, or failure or refusal to deliver, supplies of any Product to Patriot USA or the raw materials or energy used to manufacture any Product from Patriot USA’s sources of supply, whether lawful or otherwise; and technical problems at the EMTS or Change in Law that eliminates or affects the validity of any RIN or prevents the transfer of any RIN; provided, however, that Force Majeure shall not include (a) any event or occurrence that was caused by the sole or contributory negligence of such Party, (b) the ability of such Party to obtain a better price for any Product, (c) any loss of market or use of any Product, (d) any loss, interruption or curtailment of transportation on any transporter necessary to effect receipt of Product at the Delivery Point for such Product (unless caused by an event or circumstance otherwise constituting a Force Majeure), (e) any event or circumstance occurring downstream of any Delivery Point or (f) economic hardship.

“**Invoicing Documentation**” is defined in the Sales Agreement.

“**Price**” is defined in the Sales Agreement.

“**Total Price**” means, at any time, the aggregate amount of payments received by Patriot USA for any Product under Section 2 as of such time.

## 10. **Payment Terms.**

a. Invoicing and Payment. Payment Terms are set forth in the applicable Sales Agreement.

- i. Any payment made beyond the applicable date set forth in the Sales Agreement shall accrue interest at the rate of 2% per month prorated for partial months, but not to exceed the maximum rate allowed by Applicable Law. Such rate shall serve as the post-judgment interest rate on any judgment under this Agreement.
- ii. Except as set forth under Section 3, Customer shall not setoff against, deduct or withhold from or net against any amount owed to Patriot USA under this Agreement.

b. Financial Responsibility.

- i. If (A) Customer fails to pay to Patriot USA any amount owed when due under this Agreement, (B) any Performance Security has been provided by Customer and Patriot USA’s exposure (as reasonably determined by Patriot USA) thereafter exceeds any credit limit thereunder or (C) Patriot USA has reasonable grounds for insecurity or the financial condition of Customer is otherwise impaired or becomes unsatisfactory to Patriot USA, Patriot USA may require Customer to (1) pay cash for any future delivery of any Product at least two Business Days prior to the delivery thereof (a “**Prepayment**”); (2) post a Letter of Credit within two Business Days after Patriot USA has delivered notice to Customer of such requirement or (3) provide another form of security reasonably acceptable to Patriot USA within two Business Days after Patriot USA has delivered notice



to Customer of such requirement (“**Performance Security**”); provided however, that, if the Sales Agreement specifies Performance Security for Customer, Patriot USA shall not require any other Performance Security under this Section 2(b)(i). “**Letter of Credit**” means a stand-by letter of credit in form reasonably acceptable to Patriot USA and issued by a bank having an office in the United States of America and a long-term unsecured credit rating of at least A- by Standard & Poor’s Rating Group and at least A3 by Moody’s Investors Service, in sufficient value as reasonably determined by Patriot USA to cover the aggregate volume of Product to be delivered by Patriot USA, multiplied by the aggregate value for such Product. For the avoidance of doubt, Customer shall be responsible for the cost of any Performance Security.

- ii. If Customer fails to provide Patriot USA any Performance Security within the time period required by Section 2(b)(i) or maintain any such Performance Security in full force and effect, Patriot USA shall have the right to (A) declare a Default in accordance with Section 3(a)(viii); provided, that Patriot USA has deliver to Customer notice of such failure and Customer fails to cure such failure within one Business Day after delivery of such notice to Customer, (B) during such failure, setoff all or any portion of any unpaid amount owed to it by Customer against any amount owed to Customer by Patriot USA under this Agreement or otherwise, and (C) during such failure, suspend performance of any obligation by Patriot USA under this Agreement, in each case, without any prejudice to any remedies under this Agreement, at law or in equity.
- iii. Customer shall promptly provide to Patriot USA financial information about Customer and its Affiliates upon request by Patriot USA.
- iv. Except as provided in this Section 2(b) or in the Sales Agreement, neither Party shall be required to provide any credit support or performance assurances in connection with this Agreement.

#### **11. Default & Remedies.**

- a. Default. A Party (a “**Defaulting Party**”) shall be in default under this Agreement (a “**Default**”) if such Party (i) breaches any representation or warranty in the Agreement in any material respect and such breach is not cured within 5 days after such Party receives written notice thereof from the other Party, (ii) fails to make any payment when due under this Agreement and such payment is not made within three Business Days after such Party receives written notice thereof from the other Party, (iii) files a petition for, or is otherwise declared or becomes bankrupt or insolvent, or makes a general assignment for the benefit of its creditors (other than a collateral assignment), (iv) commences, institutes or has instituted or commenced against it a case or proceeding seeking a bankruptcy or judgment of insolvency or seeks or has sought against it any other relief or order for relief under any bankruptcy or insolvency law, or a petition is presented for its winding-up, dissolution or liquidation; (v) has a resolution passed for its winding-up, dissolution or liquidation; (vi) is wound up, dissolved or cancelled, (vii) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of its assets; or (viii) is subject to a “Default” as otherwise provided in this Agreement. If Customer has provided Performance Security under Section 2(b) and with respect to Customer, Party shall mean Customer or its Credit Support Provider for purposes of this Section 3(a). For the avoidance of doubt, Clause (i) shall not apply to any breach of any representation or warranty that is subject to any sole and exclusive remedy provided in this Agreement.
- b. Remedies. During the continuation of a Default by the Defaulting Party, the other Party (the “**Non-Defaulting Party**”) may (i) by written notice to the Defaulting Party, designate a day no earlier than the day of such notice and no later than 20 days after such notice as an early termination date and this Agreement shall terminate on such date, (ii) suspend its obligations under this Agreement, (iii) draw on any Performance Security and (iv) setoff all or any portion of any unpaid amount owed to it by the Defaulting Party against any amount owed to Defaulting Party by the Non-Defaulting Party under this Agreement or otherwise, in each case, without any prejudice to any remedies under this Agreement, at law or in equity (except to the extent of any limitation on liability or sole and exclusive remedy provided under this Agreement). All remedies provided herein will include the reasonable attorney’s fees incurred by the Non-Defaulting Party in enforcing its rights under this Agreement.

#### **12. Limits of Liability.**

- A. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT AND EXCEPT WITH RESPECT ANY CLAIM THAT IS SUBJECT TO ANY INDEMNIFICATION, DEFENSE OR HOLD HARMLESS REMEDY UNDER THIS AGREEMENT: (i) NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING LOSS OF PROFIT, LOSS OF PRODUCTION, LOSS OF REVENUE OR USE, OR BUSINESS INTERRUPTION, REGARDLESS OF CAUSE (INCLUDING ANY JOINT, CONTRIBUTORY OR SOLE NEGLIGENCE OF SUCH PARTY OR ITS GROUP) AND WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE; and (ii) PATRIOT USA’S LIABILITY WITH RESPECT TO THE AGREEMENT OR ANY ACTION WHICH ARISES OUT OF OR RELATES TO THE AGREEMENT OR THE PERFORMANCE OR BREACH HEREOF, WHETHER IN CONTRACT, TORT, STRICT



LIABILITY OR OTHERWISE, SHALL NOT EXCEED THE PRICE OF THE PRODUCT (OR PORTION THEREOF) WITH RESPECT TO WHICH SUCH LIABILITY AROSE. NOTHING IN THIS ARTICLE SHALL PRECLUDE OR OTHERWISE IMPAIR PATRIOT USA'S ABILITY TO INITIATE LEGAL ACTION AGAINST THE BUYER TO RECOVER THE PURCHASE PRICE OF THE PRODUCT SOLD TO BUYER BY SELLER IN THE EVENT THE BUYER FAILS TO FULLY PAY FOR THE PRODUCT AS AGREED HEREUNDER.

- b. Waiver of Representations. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, PATRIOT USA MAKES NO, AND CUSTOMER HAS NOT RELIED UPON ANY, REPRESENTATION OR WARRANTY (EXPRESSED, IMPLIED, STATUORY OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE WITH RESPECT TO QUALITY OR CONDITION) IN CONNECTION WITH THIS AGREEMENT (INCLUDING IN CONNECTION WITH ANY PRODUCT OR SERVICE).
- c. Waiver of Claim for Deficiency. CUSTOMER HEREBY WAIVES ANY CLAIM FOR ANY DEFICIENCY IN QUANTITY WHERE THE DIFFERENCE BETWEEN THE QUANTITY REQUIRED TO BE DELIVERED UNDER THIS AGREEMENT AND THE QUANTITY THAT IS DELIVERED UNDER THIS AGREEMENT IS 3% OR LESS.
- d. Temporal Waiver.
  - i. WITHOUT LIMITING ANY SHORTER TIME LIMITATION SET FORTH IN THIS AGREEMENT, ANY ACTION TO ENFORCE ANY CLAIM UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE FILED IN COURT AGAINST THE OTHER PARTY NO LATER THAN TWO YEARS AFTER THE DATE ON WHICH SUCH CLAIM AROSE, AND EACH PARTY HEREBY WAIVES ANY SUCH CLAIM THAT IS NOT SO FILED WITHIN SUCH TWO-YEAR PERIOD; PROVIDED, HOWEVER, THAT THIS SECTION 4(D) SHALL NOT APPLY TO ANY CLAIM FOR INDEMNICATION, DEFENSE OR HOLD HARMLESS UNDER THIS AGREEMENT.
  - ii. CUSTOMER SHALL ASSERT (WITH FULL DOCUMENTATION THEREFOR) IN WRITING TO PATRIOT USA ANY CLAIM UNDER THIS AGREEMENT FOR ANY SHORTAGE IN QUANTITY, DEFECT IN QUALITY, LOSS OR DAMAGE TO ANY PRODUCT, OR ANY OTHER CONTAMINATION OF ANY PRODUCT, OR ANY CLAIMS IN CONNECTION THEREWITH, WITHIN 30 DAYS AFTER SUCH PRODUCT HAS BEEN DELIVERED TO CUSTOMER UNDER THIS AGREEMENT OR, IF NOT DELIVERY, WAS SCHEDULED TO BE DELIVERED UNDER THIS AGREEMENT, AND CUSTOMER HEREBY WAIVES ANY SUCH CLAIM THAT IS NOT SO ASSERTED TO PATRIOT USA WITHIN SUCH 30-DAY PERIOD.
- e. Force Majeure. Except with regard to a Party's obligation to make any payment hereunder, if either Party is rendered unable, wholly or in part, by Force Majeure to perform or comply with any obligation under this Agreement, such Party shall be excused from such obligation during the effects of such Force Majeure, but only to the extent of such inability, and such Party shall be relieved of Liability and shall suffer no prejudice hereunder for failure to so perform such obligation during such effects. If Force Majeure renders either Party unable, in whole or in part, to perform or comply with its obligations under this Agreement, such Party shall give the other Party notice with reasonable detail, orally as soon as practicable after such Party has notice of such Force Majeure, and in writing within 48 hours thereafter. Such Party shall remedy the effects of such Force Majeure with reasonable dispatch; provided, however, that such Party shall not be required to use such reasonable dispatch to remedy a Force Majeure based upon any strike or lockout (the settlement of which shall be within the sole discretion of such Party).

In the case of any Force Majeure by Patriot USA, (i) if Patriot USA's supply of any Product is dependent in whole or in part upon production from a plant that is damaged or destroyed or that otherwise cannot produce such Product, Patriot USA shall not be obligated to repair, rebuild or otherwise replace such plant and (ii) Patriot USA shall not be required to purchase supplies or similar product to make good any shortages arising as a result of or that cause such Force Majeure.

- f. Allocation. In periods of shortage of Product for whatever cause(s) or reason(s), Patriot USA will be entitled to allocate available supply among itself, its affiliates and its customers, including Customer, at Patriot USA's sole discretion. Under no circumstances will Patriot USA be obligated to purchase or otherwise obtain products or raw materials for Product from any other person or entity in order to supply Product under this Agreement.

### 13. Indemnification.

- a. Customer. Except as otherwise provided in this Agreement, Customer shall defend, indemnify and hold harmless Patriot USA, its equity holders, Affiliates, and subsidiaries and their respective directors, officers, contractors, invitees,





employees and agents (collectively, “Patriot USA Group”) from and against any Liabilities arising from (i) any loss of life, personal injury, or damage to any property caused by or resulting from the negligent acts or omissions or willful misconduct of Customer Group in its performance of this Agreement, (ii) any discharge, spill or leak of Product caused by or resulting from the negligent acts or omissions or willful misconduct of Customer Group in connection with this Agreement (including any related loss or damage to any property or injury to or death of any individual or marine life and any remediation, clean-up, containment, removal or disposal thereof); or (iii) any failure by Customer Group to comply with any Applicable Law in connection with this Agreement.

- b. Environmental. After title to or control of any Product has transferred from Patriot USA to Customer in accordance with this Agreement, Customer shall indemnify, defend and hold harmless Patriot USA Group from and against any Liabilities arising from any discharge, spill or leak of such Product (including any related loss or damage to any property or injury to or death of any individual or marine life and any remediation, clean-up, containment, removal or disposal thereof).

#### 14. Delivery of Product.

- a. Change in Facilities. If any Product is delivered from or at a facility identified in the Sales Agreement or such other facility as may be mutually agreed by the Parties (a “Facility”) that Patriot USA does not own, lease, operate, or control, or if Patriot USA ceases for whatever reason to supply Product from or at any such Facility, Patriot USA shall have the right to change such Facility upon prior notice to Customer (a “Facility Change Notice”). In such event, Customer shall have the right to terminate this Agreement, but only with respect to the amount of Product that Customer was purchasing from or at such Facility and only if written notice of such termination is delivered by Customer to Patriot USA within 30 days after such Facility Change Notice has been delivered to Customer, and all other obligations hereunder shall remain effective.
- b. Title and Risk of Loss.
  - i. Title to and risk of loss for any Product shall transfer from Patriot USA to Customer when such Product passes through the flange connection between the delivery line and Customer’s receiving line.
  - ii. Patriot USA warrants that Patriot USA shall have good and marketable title to any Product, and the right and authority to transfer title to such Product, at the time that title to such Product transfers to Customer in accordance with Section 6(b)(i), free and clear of any lien, security interest or other encumbrance.
- c. Equipment. Patriot USA shall not be obligated to furnish, repair, or maintain any equipment for Customer. Customer shall properly maintain in a safe condition all tanks, hoses, and connections in or through which Patriot USA’s Product is handled while under Customer’s control. Patriot USA may refuse to make delivery if it believes in its sole discretion that any such tank, hose, or connection is not safely maintained or does not comply with local terminal (or other delivery point) safety standards. Upon such refusal, Patriot USA is under no obligation to re-schedule the delivery and may recover from Customer any and all costs associated with the failure to deliver. Any such refusal to deliver will in no way remove or reduce Customer’s minimum purchase obligations under this Agreement, if any. Patriot USA assumes no responsibility for the condition or the cleanliness of such equipment or for the inspection thereof.
- d. Scheduling. Buyer will give reasonable prior notice as to its desired quantities and delivery schedule.
- e. Demurrage. Time, rates, and payments relating to demurrage shall be as specified in the Sales Agreement.

#### 15. Quality.

- a. Specifications. Any Product delivered by Patriot USA to Customer shall, at the time that risk of loss for such Product transfers to Customer in accordance with Section 6(b)(i), conform to the specifications for such Product in the Sales Agreement (the “Specifications”); provided, however, that, if no Specifications are set forth in the Sales Agreement for such Product, the Specifications for such Product shall be the current industry specifications for such Product. **WITHOUT LIMITING THE GENERALITY OF SECTION 4(B), EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6(b)(ii) or THIS SECTION 7(a), PATRIOT USA MAKES NO, AND CUSTOMER HAS NOT RELIED UPON ANY, REPRESENTATION OR WARRANTY (EXPRESSED, IMPLIED, STATUORY OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE WITH RESPECT TO QUALITY OR CONDITION) WITH RESPECT TO ANY PRODUCT.** Customer assumes all risks and losses that result from the use of the Product purchased hereunder whether used singly or in combination with other substances or in any process. Without limiting the generality of the foregoing, Patriot USA shall not be liable for any claim arising from the commingling by Customer of any product with any other products or materials on any transport truck, railroad car, vessel, or other transportation.



- b. Determination. Upon reasonable request of Customer, Patriot USA shall provide Customer with representative samples of any Product. Each Party shall be entitled to have its representatives present during all loadings, unloading, tests and measurements involving delivery of any Product under this Agreement. The quality of the Product shall be determined in accordance with the latest established API and ASTM standards for the method of delivery. The Parties shall mutually agree to an independent inspector to determine the quality of any Product. The fees and other charges of such independent inspector will be shared equally by the Parties.
- c. Non-Conforming Product. The sole and exclusive remedies of Customer with respect to any Product furnished by Patriot USA hereunder that is found to be in breach of Section 7(a) shall be limited to one of the following (as determined by Patriot USA): (i) the replacement of such Product at Patriot USA's sole cost and expense or (ii) a refund of the price paid for such Product the then-existing market price at the Delivery Point for such Product, and, in either case, Patriot USA shall reimburse Customer for Customer's reasonable, documented and actual third-party costs paid by Customer with respect to the removal of such Product from Customer's facilities, disposal of such Product as required by Applicable Law, cleaning of such facilities and repair of vehicles damaged by such Product to the extent caused by such breach of Section 7(a). For the avoidance of doubt, Patriot USA shall be entitled to recover the Price payable for any quantities of Product delivered to Customer.

#### 16. Quantity.

- a. Volume. The Sales Agreement shall set forth each Contract Quantity to be sold and delivered at any Facility during the specified delivery period.
- b. Measurement. All quantities of Product delivered to Customer shall be measured and determined based upon the meter readings at the Facility for such Product. The basis of measurement of any Product shall be a Gallon and all measurement quantities shall be corrected to a standard conditions of 60 degrees Fahrenheit in accordance with American Society of Testing Materials ("ASTM") D-1250, and shall be in accordance with the latest standards or guidelines published by the American Petroleum Institute ("API") or ASTM. Measurement shall be performed in the manner customarily utilized at the applicable at the Delivery Point/Facility. Each Party shall have the right to have one representative present, in addition to an independent inspector, to witness all gauges, tests, meter calibration, and measurements.

#### 17. Taxes.

- a. Patriot USA. Subject to Section 9(c), Patriot USA shall pay and be responsible for any tax, fee or other similar charge imposed or assessed by any Governmental Authority with respect to any Product delivered hereunder arising before the transfer of title to such Product to Customer.
- b. Customer. Subject to Section 9(c), Customer shall pay and be responsible for any tax, fee or other similar charge imposed or assessed by any Governmental Authority with respect to any Product delivered hereunder arising after the transfer of title to such Product to Customer.
- c. Other Taxes.
  - i. Any tax, fee or other similar charge imposed or assessed by Governmental Authority at or based upon the transfer of title or the delivery of any Product hereunder, or the receipt of payment therefor, regardless of the character, method of calculation or measure of such imposition or assessment, shall be paid by the Party upon which such tax, fee, or charge is imposed by Applicable Law, and, if such Party is Patriot USA, Customer shall be responsible and reimburse Patriot USA for such tax, fee, or charge. Without limiting the generality of the foregoing sentence, Customer shall pay and be responsible for any federal, state, and local gasoline, gasoline blend stocks, motor fuel, additive, diesel fuel, aviation fuel, sales, use, gross receipt, and other excise taxes, fees and similar charges imposed or assessed by Governmental Authority with respect to any Product.
  - ii. With respect to rack sales of any Product, Customer shall pay and be responsible for any tax, fee or other similar charge imposed or assessed by Governmental Authority, and any and all increases thereon, which are now or hereafter imposed, levied or assessed directly or indirectly by any Governmental Authority on or as a result of the transfer or sale contemplated by this Agreement.





- d. **Reimbursement.** To the extent a Party ("**Paying Party**") is required by Applicable Law or otherwise under this Agreement to pay or remit any tax, fee or charge that is the responsibility of the other Party under this Section 9 ("**Responsible Party**") or Paying Party otherwise pays any such tax, fee or charge for which Responsible Party is responsible under this Section 9, Responsible Party shall reimburse Paying Party to the extent Paying Party paid any such tax, fee or charge.
  - e. **Exemption Certificates.** Prior to the date any payment required hereunder becomes due, Customer shall furnish to Patriot USA all current exemption or resale certificates or direct pay permits required or permitted by Applicable Law for use by Customer regarding the imposition or payment of any state or federal excise, sales or use taxes.
- 18. Safety.** Patriot USA shall furnish to Customer safety data sheets ("**SDS**") concerning the health and safety aspects of any Product purchased by Customer, including safety and health warnings required by any Applicable Law. Customer acknowledges and agrees that it and its Carriers are fully informed concerning the nature and existence of risks posed by transporting, storing, using, handling or being exposed to any Product. Customer shall cause its Carriers entering any Facility to comply, and cause their respective personnel to comply, with the policies and regulations of such Facility and requirements and Applicable Laws relating to the handling, storage, transportation and distribution of any Product. Customer shall cause its Carriers to further advise and instruct employees relating to the safe and proper methods of handling any Product. Nothing herein shall relieve Customer of its duties in relation to the safe and proper evaluation, storage, use, transport and disposal of any Product.
- 19. Bankruptcy.** The Parties intend that: (a) this Agreement shall constitute a "forward contract"; (b) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute "settlement payments" and (c) any transfer of Performance Security constitutes "margin payments", in each case, as such terms are defined in Title 11 of the United States Code (the "**Bankruptcy Code**"). Upon a Party becoming bankrupt, the other Party shall be entitled to exercise its rights and remedies under this Agreement in accordance with the safe harbor provisions of the Bankruptcy Code
- 20. Confidentiality. "Confidential Information"** means any information disclosed by a Party (a "**Disclosing Party**") to the other Party (a "**Receiver**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of such information and the circumstances of such disclosure; provided, however, that "Confidential Information" excludes information that: (a) is or becomes generally known to the public without breach of any obligation to the Disclosing Party under this Section 12; (b) was known to Receiver prior to its disclosure by the Disclosing Party without being subject to any obligation of confidentiality; (c) is received by Receiver from a third party without any obligation of confidentiality to the Disclosing Party; or (d) was independently developed by Receiver without reference to the Disclosing Party's Confidential Information. Subject to this Section 12, Receiver shall maintain any Confidential Information of the Disclosing Party in strict confidence, and not use any Confidential Information of the Disclosing Party except to the extent necessary to exercise or enforce its rights or satisfy its obligations under this Agreement. Receiver may disclose any Confidential Information of the Disclosing Party to the Receiver's employees or contractors who need to know such Confidential Information to perform any duties to or of Receiver and to its attorneys or accountants or its actual or prospective direct or indirect lenders, investors or purchasers of assets related to this Agreement (or their respective representatives), in each case, who are bound by obligations of confidentiality at least as protective as those set forth in this Section 12, and Receiver shall be responsible to the Disclosing Party for any breach thereof by any such Person. In the event of a court order or other Law compelling disclosure of any Confidential Information of the Disclosing Party, Receiver shall be permitted to disclose such Confidentiality Information to the extent required by such order or other Law; provided, that Receiver shall provide to the Disclosing Party prompt written notice thereof and reasonably cooperate with the Disclosing Party to seek confidential or other protective treatment. This Section 12 shall survive the termination or expiration of this Agreement for five years. Except as otherwise provided in the Sales Agreement, the Sales Agreement shall be Confidential Information of each Party and the other provisions of this Agreement shall not be Confidential Information of either Party.
- 21. Audit.** Patriot USA may at its own expense and with 10 days' written notice, conduct an audit of Customer records relevant to this Agreement to ensure Customer's compliance with this Agreement. If Patriot USA chooses to use a third-party auditor, Customer will have the right to approve of the auditor. Patriot USA will not conduct more than one audit in any 12-month period.
- 22. Legal Compliance.**
- a. **General.** Each Party shall comply with any Applicable Law affecting any transaction under this Agreement, or any delivery, transportation, handling, or storage of any Product contemplated by this Agreement. After the delivery



thereof to Customer in accordance with this Agreement, Customer shall not allow such Product to be contaminated or changed in any manner that would violate any Applicable Law.

- b. Anti-Bribery. Each Party shall comply with, and use reasonable efforts to ensure that any third parties used by it to fulfill such Party's obligations under this Agreement will comply with, any Applicable Law relating to anti-bribery, anti-corruption, and anti-money laundering applicable to any of the Parties or their Affiliates, including the US Foreign Corrupt Practices Act. If either Party fails to comply with any of the provisions of this Section 14(b), the other Party may declare a Default in accordance with Section 3(a)(viii).
- c. Trade Restrictions. Nothing in this Agreement shall be interpreted or applied so as to induce or require either Party to take, or to refrain from taking, any action in connection with this Agreement that is inconsistent with or would be in violation of any Applicable Laws which relate to anti-money laundering, foreign trade or export controls, sanctions, embargoes or international boycotts of any kind.
- d. Change in Law.
  - i. It is understood by the Parties that Patriot USA is entering into each transaction in reliance on the laws, rules, regulations, decrees, agreements, concessions and arrangements (hereinafter called "Regulations") in effect on the date hereof with governments, governmental instrumentalities or public authorities affecting the Product sold hereunder.
  - ii. In the event that at any time and from time to time any regulations are changed or new regulations become effective, whether by law, decree or regulation or by response to the insistence or request of any governmental or public authority or any person purporting to act therefore, and the material effect of such changed or new regulations (a) is not covered by any other provision hereunder, and (b) has a material adverse economic effect upon Patriot USA, Patriot USA shall have the option to request re-negotiation of the prices or other pertinent terms hereunder. Such option may be exercised by Patriot USA at any time after such changed or new regulation is promulgated, by written notice of desire to re-negotiate, such notice to contain the new prices or terms desired by Patriot USA.
  - iii. If the Parties do not agree upon new prices or terms satisfactory to both within 30 days after Patriot USA gives such notice, Patriot USA shall have the right to terminate the affected transaction at the end of the said 30-day period. Any Product delivered during such 30-day period shall be sold and purchased at the price and on the terms applying hereunder without any adjustment in respect of the new or changed regulations concerned.

### 23. Insurance.

- a. Scope and Limits. Customer will procure and maintain insurance coverage according to the requirements detailed below throughout the term of this Agreement. For general liability coverage, Customer will maintain coverage according to the requirements detailed below throughout the term of this Agreement and for the five-year period following its completion of the Services:
  - i. Workers' compensation insurance in accordance with applicable state and federal laws and employers' liability insurance that covers all employees involved with the Services under this Agreement with limits of at least \$1,000,000, endorsed to provide coverage for an alternate employer;
  - ii. Commercial general liability insurance with limits of at least \$1,000,000 for each occurrence for bodily injury or property damage and with annual aggregates of at least \$2,000,000 for products-completed operations and for general aggregate, including coverage for (1) premises or operations insurance, (2) contractual liability insurance, and (3) broad form property damage insurance;
  - iii. Comprehensive automobile liability insurance, including contractual liability to cover all owned, hired, and non-owned automobiles, with a combined single limit of not less than \$1,000,000 for each occurrence for bodily injury or property damage;
  - iv. Excess or umbrella liability insurance with a combined single limit of not less than \$3,000,000 for each occurrence and \$3,000,000 in the aggregate for bodily injury or property damage covering excess of the required employers' liability, commercial general liability, and comprehensive automobile liability insurance.



If Customer maintains higher limits than those listed above, Patriot USA will be entitled to coverage for the higher limits maintained by Customer.

- b. Other Insurance Provisions. Customer will provide Patriot USA with certificates of insurance that establish that Customer has insurance coverage that satisfies the requirements of this Agreement. If Patriot USA takes possession of an insurance certificate that does not evidence Customer's compliance with the terms of this Section, that action will not limit Customer's obligation to comply with the terms of this Section or constitute a waiver or modification of Customer's obligation to comply with the terms of this Section.

Customer's insurance coverage required under this Agreement will: (i) for commercial general liability and comprehensive automobile liability coverage, name Patriot USA as an additional insured and be provided on a primary and noncontributory basis, (ii) require 30 days' written notice to Patriot USA of cancellation or a material change in coverage, and (iii) for commercial general liability, comprehensive automobile liability, and workers compensation coverage, waive all rights of subrogation against Patriot USA. Nothing in this Section limits the scope of Customer's indemnity obligations under Section 8 of this Agreement, which exist independently of, but are supported by, the insurance obligations of this Section.

#### **24. Miscellaneous.**

- a. Notices. Any notice or demand which is required or permitted to be given under this Agreement will be deemed sufficiently given and received for all purposes when delivered in writing by hand, confirmed electronic transmission, or nationally recognized overnight courier, or five days after being sent by certified or registered mail, postage and charges prepaid, return receipt requested, to the applicable individuals or departments and addresses described in the Sales Agreement.
- b. Amendments. Modifications, amendments, or any additional or different provisions to this Agreement will be enforceable only if set forth in a writing signed by the Parties. Any provisions in any other writing, of whatever kind, which are inconsistent with or in addition to this Agreement, will not be binding on the Parties.
- c. Independent Contractor. Each Party is acting solely as independent contractor, maintaining complete control over its employees, facilities, and operations in connection with this Agreement. None of this Agreement, or any performance of this Agreement, will constitute either Party as partner, co-venturer, joint venturer, regular employee, representative or agent of the other Party. None of either Party or any of its agents or contractors, will have any authority to on the other Party's behalf or otherwise bind the other Party to any Liability. This Agreement shall not create any sole source supply or purchase arrangement, general supplier-purchaser relationship or any franchise or distribution relationship between the Parties.
- d. Assignment. Customer may not assign or transfer this Agreement, in whole or in part, without written approval from Patriot USA. Any assignment or transfer that is not approved in writing by Patriot USA will be, at Patriot USA's sole discretion, null, void, and without effect. Despite the previous provision, this Agreement and the covenants, conditions, and indemnities in this Agreement will inure to the benefit of and will be binding upon Patriot USA and Customer and their respective successors and permitted assigns.
- e. Business Practices. Each Party shall use commercially reasonable efforts to ensure that all financial settlements, billings, and reports it renders to the other Party under this Agreement accurately reflect the facts about all activities and transactions related to this Agreement. Each Party shall notify the other Party promptly upon discovery of any instance where the notifying Party has reason to believe data covered by this Section 16(e) is no longer accurate and complete.
- f. Conflict of Interest. No director, officer, employee or agent of either Party shall give any commission, fee, rebate, kickback, lavish gift or entertainment of significant cost or value to any director, officer, employee, or agent of the other Party in connection with this Agreement.
- g. Trademarks and No Publicity. The product sold under this Agreement is on an unbranded basis. Customer shall neither use or have the right to use, in any fashion, the trademarks, trade names, brand names or any other identification of Patriot USA or its Affiliates in Customer's storage, distribution, sale or use of Product received



under this Agreement. Neither Party shall use any name trade name or trademark of the other Party in advertising, publicity, promotional, or marketing materials or any other general announcement about this Agreement, without the express written consent of the other Party; provided, however, that this Section 16(g) shall not prohibit the same to the extent required by Applicable Law or the applicable rules of any stock exchange having jurisdiction over either Party or its Affiliates.

- h. Governing Law.** THIS AGREEMENT WILL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF **ALABAMA** WITHOUT REFERENCE TO ITS LAW ON CONFLICTS OF LAW! THAT REQUIRE THE APPLICATION OF ANOTHER JURISDICTION'S LAWS. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to, or govern, this Agreement.
- i. Courts.** THE PARTIES HEREBY IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN **CLAY** COUNTY, **ALABAMA** AND APPROPRIATE APPELLATE! COURTS THEREFROM, AND EACH PARTY HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN! RESPECT OF ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF, OR IN CONNECTION WITH, THIS! AGREEMENT SHALL BE HEARD AND DETERMINED IN SUCH COURTS; PROVIDED, HOWEVER, THAT EACH! PARTY AGREES THAT A JUDGMENT IN ANY SUCH DISPUTE, CONTROVERSY OR CLAIM MAY BE! ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER! PROVIDED BY APPLICABLE LAW. THE PARTIES HEREBY IRREVOCABLY WAIVE ANY OBJECTION WHICH! THEY MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH DISPUTE,! CONTROVERSY OR CLAIM BROUGHT IN ANY SUCH COURT OR ANY DEFENSE OF INCONVENIENT! FORUM FOR THE MAINTENANCE OF ANY SUCH DISPUTE, CONTROVERSY OR CLAIM IN ANY SUCH! COURT.
- j. Jury Waiver.** THE PARTIES KNOWINGLY AND WILLINGLY EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN ANY DISPUTE, CONTROVERSY OR CLAIM ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT (WHETHER BASED ON CONTRACT, IN TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY) INCLUDING ANY ACTION, COUNTERCLAIM, OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR ANY PROVISION OF THIS AGREEMENT. FOR THE AVOIDANCE OF DOUBT, THIS WAIVER WILL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THIS AGREEMENT.
- k. Severability; Waiver; Survival.** If a court determines that any provision of this Agreement is invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and the invalidity or unenforceability of any provision of this Agreement in any situation or jurisdiction shall not affect the validity or enforceability of the other provisions hereof or the validity or enforceability of such provision in any other situation or in any other jurisdiction. The waiver by either Party of a breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach of this Agreement. None of the provisions of this Agreement shall be waived by either Party unless such waiver is in writing and signed by the waiving Party. No failure on the part of either Party to exercise any power, right, or remedy under this Agreement, and no delay on the part of either Party in exercising any power, right, or remedy under this Agreement, shall operate as a waiver of such power, right, or remedy. The expiration or termination of this Agreement shall not relieve either Party of any Liability arising prior to such expiration or termination, any obligation expressly set forth herein to survive such expiration or termination or any obligation herein that, by its nature, survives such expiration or termination, including all payment arising prior to the date of expiration or termination, and the indemnification, defense or hold harmless obligations arising under this Agreement shall survive the expiration or termination of this Agreement indefinitely.
- l. Construction.** As used in this Agreement and except expressly provided for, or unless the context clearly provides otherwise, in this Agreement, (i) the terms "herein", "herewith", "hereunder" and "hereof" are references to this Agreement, taken as a whole; (ii) the terms "include", "includes" and "including" shall mean "including, without limitation"; (iii) any reference to any Schedule, Section or Clause shall be to a Schedule to, or Section or Clause of, this Agreement; (iv) any reference to an agreement, instrument or other document (including this Agreement) shall be a reference to such agreement, instrument or other document as amended or modified in accordance herewith or therewith, as applicable, (v) any reference to a Person includes its successors and permitted assigns, (vi) the singular shall include the plural and the plural shall include the singular, and the masculine shall include the feminine and neuter, and vice versa, (vii) "day" means a calendar day, (viii) any use of "or", "and/or", "either" or "any" shall not be exclusive, (ix) any reference to any Applicable Law is a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and (x) all monetary amounts are expressed in United States of America Dollars (US\$). The headings of the Sections in this Agreement are inserted for convenience of reference only and shall not control or affect the meaning or construction of this Agreement in any



manner. Each Party has been represented by an attorney in connection with this Agreement, which shall be deemed for all purposes as prepared through the joint efforts of the Parties and shall not be construed more strictly against either Party under any rule of construction or otherwise.

- m. Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile or electronic mail transmission, all Parties need not be signatories to the same documents, and all counterpart-signed documents will be deemed to be an original and one instrument.
- n. Beneficiaries. There is no beneficiary to this Agreement other than the Parties.
- o. No Export. Customer agrees not to export the Product to any person or entity located outside the United States.
- p. Termination. Notwithstanding any other provision herein, Patriot USA may terminate this Agreement, including the applicable Sales Agreement, at any time, with or without cause, upon thirty (30) days' notice to Customer.

**Version Date: July 2022**