

## CONFIDENTIALITY and NON-DISCLOSURE AGREEMENT

This Agreement is made between: (Your Company Name and Address) And

Petro-Lubricant Testing Laboratories, Inc.

a company incorporated the United States of America having offices at 116 Sunset Inn Road, P.O. Box 300, Lafayette, NJ 07848 (herein after referred to as "Petro-Lube")

### 1) NOW THEREFORE IT IS AGREED AS FOLLOWS:

1.1) The following expressions shall have the meanings specified in the Clause.

1.2) "Disclosing Party" means, in respect of any Sample, the Party providing such Sample either directly or indirectly to the other Party.

1.3) "Effective Date" means the date of signing of this Agreement by the later Party to sign.

1.4) "Evaluation" means an evaluation by the Receiving Party of the Disclosing Party's Samples for the purpose of testing against those methods as specified in the Disclosing Party's Purchase Order. All tests available reside in the Petro-Lube Testing Brochure or on the Petro-Lube web site or by quotation.

1.5) "Party" means (Your Company Name), or Petro-Lube, as the context so requires, and "Parties" means (Your Company Name), or Petro-Lube, as the context so requires and its Assigns.

1.6) "Receiving Party" means, in respect of any Sample, the Party receiving such Sample either directly or indirectly from the other Party.

1.7) "Results" means the test results, findings and conclusions arising from the Evaluation.

1.8) "Sample" means any sample for testing provided to Petro-Lube by or on behalf of (Your Company Name) under this Agreement.

## 2) Supply of Samples

2.1) (Your Company Name) shall supply, or arrange for supply, to Petro-Lube such Samples as are deemed necessary for the completion of the Evaluations. The nature, quantity and types of Samples to be supplied shall coincide with Petro-Lube's capabilities.

2.2) The supply of Samples by (Your Company Name) to Petro-Lube is neither a sale nor an offer for sale, and all Samples are offered to Petro-Lube by (Your Company Name) for experimental and evaluation purposes only.

### **3) Evaluation and Restricted Use**

3.1) Subject to Clauses 3.2 and 3.3, Petro-Lube is authorized to perform Evaluations on (Your Company Name) Samples.

3.2) In consideration of the provision to it of, and its right to use, Samples, Petro-Lube agrees:

3.2.1) Not to analyze, or have analyzed, any Sample in order to determine its chemical structure or composition nor permit any third parties to do the same.

3.2.2) Subject to Clause 3.2.4, not to pass or convey all or any part of any Sample to any third party without the express consent of (Your Company Name).

3.2.3) Not to use any Sample for any purpose other than to perform those Evaluations as directed by (Your Company Name).

3.2.4) to use all reasonable means to keep the Samples secure and limit dissemination of Samples to those of its employees who require access to the Samples for the purpose of Evaluation and, in any event, subject to Clause 3.3.

Petro-Lube further agrees and acknowledges that Samples may be developmental only, and warrants that it is aware of and competent to deal with the potential hazardous nature of any Sample and takes full responsibility for all health, safety and environmental considerations which may arise from the possession and/or use of any Sample.

3.3) Petro-Lube shall assure that the confidential nature of any Sample is brought to the attention of any of its employees to whom Samples are provided pursuant to Clause 3.2.4 and that each such employee has agreed to be bound by Petro-Lube's obligation of secrecy/restricted use no less stringent than those set out in this Agreement.

3.4) At the conclusion of the Evaluation Petro-Lube shall either return promptly to (Your Company Name) or it's Assigns, or at (Your Company Name)'s option, destroy any remaining Sample in whatever form then in its possession or control and verify such to (Your Company Name).

3.5) Petro-Lube agrees to provide a test report to (Your Company Name) of the results of the Evaluations in a form that does not disclose information which Petro-Lube deems to constitute confidential information regarding (Your Company Name), Petro-Lube, or any other third party.

## 4) Non-Disclosure of Confidential Information

4.1) It shall not be necessary for either Party to disclose to the other Party any confidential technical or commercial data or information about its products, technology, processes, commercial activities or otherwise for the purposes of this Agreement. To the extent that either Party does disclose such data or information to the other Party, the other Party shall be entitled to regard such information as non-confidential in the absence of a written agreement between the Parties otherwise.

## 5) Export Control

5.1) Petro-Lube certifies that, in exercising its rights and carrying out its obligations under this Agreement, it shall comply with all applicable governmental laws, regulations, decrees and orders governing the export and re-export of goods, technology and software including, without limitation, the U.S. Export Administration Regulations and European Council Regulation 428/2009 and all amendments to such Regulations.

## 6) Liability

6.1) This Clause sets out the entire liability of the Parties to each other, whether in contract, tort or otherwise, arising from or in connection with this Agreement.

6.2) Nothing in this Agreement shall operate to exclude or limit the liability of either Party for death or personal injury arising from its negligence, fraudulent misrepresentation or any other liability to the extent the same may not be excluded or limited as a matter of law.

6.3) Subject in any event to Clause 6.2, the Parties in this Agreement shall not be liable to each other, whether in contract, tort, (including negligence) or otherwise, under this Agreement for any loss of business, loss of products, loss of anticipated or actual profit, loss of goodwill or reputation, loss caused by business interruption or (without prejudice to any heads of loss expressly set out in Clause 6.3) any indirect, special or consequential cost, expense, loss or damage, even if such cost, expense, loss or damage was reasonably foreseeable or might have reasonably been contemplated by either Party.

6.4) Petro-Lube agrees and acknowledges that, to the fullest extent permitted by applicable law, (Your Company Name) makes no representation or warranty as to the satisfactory quality, suitability or fitness for purpose of any Samples and, save as expressly provided otherwise in this Agreement, shall not be liable, in negligence or otherwise, for any damage arising from or in connection with any use made by Petro- Lube of any Samples or any allegation that such use infringes any third party intellectual property rights or otherwise.

6.5) To the fullest extent permitted by applicable law, each Party shall be responsible for, and shall indemnify and hold harmless the other Party from all claims, losses, damages, reasonable costs (including legal costs), reasonable expenses and liabilities in respect of:

6.5.1) loss or damage to any property of either Party to this Agreement arising from or relating to the performance of the Agreement.

6.5.2) personal injury, including death or disease, to any person employed by either Party to this Agreement arising from or relating to the performance of this Agreement, even if any such injury, loss or damage arises out of any negligence, act or omission of either Party in the performance of this Agreement.

## 7) Miscellaneous

7.1) Nothing in this Agreement shall be construed as an obligation on either Party to enter into any further agreement of any kind or as granting any license under any patent or other intellectual property rights other than those specifically set out in this Agreement.

7.2) Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party.

7.3) This Agreement shall come into force on the Effective Date.

7.4) The Evaluation and supply of Samples will commence as soon as is practicable after the Effective Date. This Agreement will last for one year from the Effective Date. The obligations under this agreement shall continue to remain in force for a period of five (5) years from the Effective Date. This Agreement may be terminated by either Party at any time by giving thirty (30) days prior written notification. This Agreement may be extended by mutual agreement and written consent of both Parties.

7.5) No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act of 1999 by any person who is not a Party to this Agreement. The consent of any third party shall not be required for the variation or termination of this Agreement, even if that variation or termination affects the benefit conferred on that third party.

7.6) This Agreement constitutes the whole agreement between the Parties relating to its subject matter and supersedes all prior oral or written agreements, drafts, understandings, undertakings, representations or arrangements relating to the subject matter of this Agreement, except in the case of fraud.

7.7) No amendment, modification or waiver of any term of this Agreement shall be effective unless made in writing and signed by each of the Parties.

7.8) The existence, terms, and subject matter of this Agreement are confidential between the Parties and are not to be disclosed to any third parties.

7.9) If one or more provisions of this Agreement is or are declared by any court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions contained in this Agreement will not be affected or impaired in any way.

## 8) Governing Law and Jurisdiction

8.1) This Agreement, and the relationship between (Your Company Name) and Petro-Lubricant Testing Laboratories, Inc. under this Agreement, shall in all respects be interpreted in accordance with and governed by the laws of the United States of America and the State of (Your State), and the Parties agree to submit to the exclusive jurisdiction of those courts in relation to any dispute arising out of or in connection with this Agreement (whether based in contract, tort (including negligence) or otherwise).

**As Witness Thereof**, the Parties have caused the Agreement to be executed in duplicate original on the dates indicated below.

For and on behalf of: (Your  
Company Name)

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

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

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

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

For and on behalf of:

Petro-Lubricant Testing Laboratories, Inc.

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

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

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

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