



# LUBRICANTS PACKAGING MANAGEMENT ASSOCIATION

## Participation Agreement *Vermont*

FEBRUARY 21, 2025

1. **Interpretation**

1.1 In this Agreement, unless the context otherwise requires:

- (a) **“Agreement”** means this Participation Agreement.
- (b) **“Brand”** means any mark, word, name, symbol, design, device or graphical element, or a combination thereof, including a registered or unregistered trademark, that identifies a Program Product and distinguishes the Program Product from other products.
- (c) **“Brands and Products Information”** is defined in section 5.3(a);
- (d) **“Business Day”** means any day other than a Saturday, Sunday, State of Vermont holidays or federal legal holidays.
- (e) **“Confidential Information”** is defined in section 4.1.
- (f) **“Fees/Dues Schedule”** means the LPMA’s Fees/Dues Schedule as posted on the LPMA website, as determined from time to time by the LPMA’s Board of Directors.
- (g) **“LPMA”** means the Lubricants Packaging Management Association.
- (h) **“Manufacturer”** means, a Person who:
  - (i) manufactures or manufactured a Program Product under its own Brand or label for Sale in the State;
  - (ii) Sells in the State under its own Brand or label a Program Product produced by another supplier;
  - (iii) owns a Brand that it licenses or licensed to another Person for use on a Program Product sold in the State;
  - (iv) imports into the United States of America for Sale in the State a Program Product manufactured by a Person without a presence in the United States of America;
  - (v) manufactures a Program Product for Sale in the State without affixing a Brand name.
- (i) **“Notice”** is defined in section 6.1.
- (j) **“Participant”** means the undersigned Manufacturer who is a participant in the Program pursuant to this Agreement.
- (k) **“Participant Fees/Dues”** means any fees or other dues payable by a Participant in respect of Program Products in the amounts set out in the Fees/Dues Schedule and in accordance with the Plan.
- (l) **“Person”** means any individual, public or private corporation, partnership, association, firm, trust or estate, franchisee or franchisor; or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- (m) **“Plan”** means the collection plan respecting Program Products in the State.

- (n) **“Program”** means the system, method, or other mechanisms implemented by the LPMA in accordance with the Plan respecting Program Products in the State.
- (o) **“Program Product”** means any products identified in the LPMA Applicable Products List as posted on the LPMA website, as determined from time to time by the LPMA’s Board of Directors.
- (p) **“Rules”** means this Agreement and any of the LPMA’s and/or a Subsidiary’s plans, policies, procedures, fees/dues schedules, bylaws, or other terms or conditions governing the Plan, the Program or the Participant, as each may be amended from time to time by the LPMA’s Board of Directors, setting out the terms and conditions of the Program.
- (q) **“Sale”** or **“Sell”** means any transfer for consideration of title or of the right to use by lease or sales contract a Program Product to a Person in the State. **“Sell”** or **“Sale”** does not include the sale, resale, lease, or transfer of a used Program Product or a Manufacturer’s wholesale transaction with a distributor or a retailer.
- (r) **“State”** means the State of Vermont.
- (s) **“Subsidiary”** means any corporation or other unincorporated entity of which LPMA possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of that corporation or unincorporated entity, whether through ownership of voting securities; membership in an unincorporated entity; the power to appoint or remove members of such corporation or unincorporated entity’s board of directors; by contract or otherwise.

1.2 Words importing the singular gender include the plural and vice versa; words importing gender include the masculine, feminine and neuter gender; words importing Persons include individuals, bodies corporate, partnerships, and unincorporated organizations.

2. **Terms of Participation**

2.1 The Participant acknowledges that it is a Manufacturer and is hereby permitted to participate in the Program pursuant to this Agreement in accordance with the Plan and the Rules.

2.2 In consideration of being approved to become a Participant in the Program pursuant to section 3.1, the Participant hereby agrees:

- (a) To comply with this Agreement, the Plan and any Rules applicable to the Program;
- (b) To pay to the LPMA any Participant Fees/Dues as set out on the Fees/Dues Schedule in accordance with the Plan. Participant Fees/Dues are used to fund the implementation of the Plan and the collection, processing, and end-of-life management of the Program Products, including, without limitation, facility costs, equipment costs, labor, supplies, maintenance, events costs, and event contractor costs, including collection event set-up fees, environmental service fees, insurance fees, and shipping containers and materials. Notwithstanding the date the Participant’s participation in the Program commences, such Participant Fees/Dues shall be payable from the respective effective date for each set out on the Fees/Dues Schedule;
- (c) To cooperate with the LPMA to meet the performance goals contained in the Plan, including recycling and participation rates; and
- (d) To provide information to the LPMA in accordance with section 5, including without limitation submission of the Brands and Products Information to the LPMA;

- (e) That the LPMA has the authority to make Rules, policies or procedures in relation to the Plan, the Program, and any Program Products. The Participant agrees to be bound by any applicable Rules, policies or procedures applicable to it and made by LPMA so long as such Rules, policies, or procedures comply with applicable state and/or federal law. This Agreement and/or LPMA's Rules may be amended from time to time by the LPMA's Board of Directors.

3. **Term and Termination**

3.1 **Term.** Participant agrees that upon the Participant's delivery to the LPMA of a copy of this Agreement executed by an authorized signing officer of the Participant, the term of this Agreement and the Participant's participation in the Program will commence on the Participant's receipt of written confirmation from the LPMA that the Participant has been approved, at the LPMA's sole discretion, to participate into the Program, and will continue thereafter for a period of not less than 3 years. Subsequent to the initial 3 year term, this Agreement and the obligations flowing therefrom, shall be considered renewed annually on the anniversary date of signing this Agreement, unless the Participant gives written Notice of termination to the LPMA.

3.2 **Termination.**

- (a) Where the Participant has given written Notice of its intention to withdraw from the Program, this Agreement shall terminate 180 days from the date of receipt of such Notice by the LPMA. Subject to the initial 3 year term, a Participant may give Notice of its intention to terminate this Agreement at any time.
- (b) The LPMA may terminate this Agreement immediately by written Notice to the Participant:
  - (i) if the Participant ceases to carry on business; or
  - (ii) if the Participant fails to comply with the LPMA's Rules and terms of this Agreement and such failure remains after 30 days of from the delivery of a Notice of non-compliance to the Participant by the LPMA.

4. **Confidentiality**

4.1 "**Confidential Information**" means information that, if made public would divulge competitive business information or trade secrets of the entity that developed the information; or would reasonably hinder the entity's competitive advantage in the market.

4.2 Subject to sections 5.2 and 5.3 and as required for compliance with applicable laws, the LPMA shall:

- (a) Keep confidential any properly identified Confidential Information provided by the Participant; and
- (b) Exclude from release to the public or any unauthorized entity any properly identified Confidential Information provided by the Participant to the LPMA in relation to the Program or the Plan.

4.3 **Burden to demonstrate information is proprietary.** The Participant submitting the information to the LPMA: (a) has the burden to identify and demonstrate the submitted information is Confidential Information at the time of submission; and (b) must describe with particularity which information it considers Confidential Information and why. If part of a document is Confidential Information and part is not, the Participant must submit two copies of the document, one unredacted and marked confidential and

one redacted. The LPMA need only protect or withhold Confidential Information clearly and properly identified at the time of submission.

5. **Recordkeeping, Production of Records, and Audits**

5.1 **Duty to preserve and maintain records.** The Participant agrees to keep and preserve all books and records in accordance with State and federal laws. The Participant must keep and maintain all documents and records necessary to determine compliance with the Program for a period of 5 years. Such records must be open to inspection by the LPMA at any time.

5.2 **Sales data.** The Participant shall submit quarterly reports to the LPMA within thirty (30) days following the end of each calendar quarter. These reports must detail the weight or volume of Program Products sold by category in the State and must be prepared in the format and manner determined by the LPMA from time to time and as specified on the LPMA's website. Sales data provided to the LPMA by the Participant shall be kept confidential. Notwithstanding the foregoing the LPMA may aggregate such Sales data with the Sales data of other Manufacturers participating in the Program for analytical, reporting or statistical purposes, including without limitation for inclusion in the LPMA's annual report, provided that such aggregated data does not identify the Participant as the source of the data or disclose any information that could reasonably be used to identify the Participant.

5.3 **Duty to report on Program Products and Brands.**

- (a) On execution of this Agreement by the Participant, and thereafter not less than annually on or before **[June 1]** each calendar year, the Participant shall submit to the LPMA an accurate list of the Participant's Brands, the name of each the Participant's Program Products, and the contact information for a Participant representative (collectively, "**Brands and Products Information**") using the Brands and Products Information form (attached to this Agreement as **Appendix A**) or such other form or methods implemented by the LPMA and posted on the LPMA website.
- (b) The Participant must ensure it maintains and periodically reports to the LPMA on any changes to the Participants' Brands and Products Information. The Participant acknowledges and agrees that the LPMA may make public and report to the Secretary on the Participant's Brands and Products Information.

5.4 **Duty to produce records.** The Participant must submit documents and records related to the calculation and payment of Participant Fees/Dues and any other information and materials necessary for to determine compliance with the Program to the LPMA within ten (10) Business Days of a written request for such documents and records from the LPMA.

5.5 **Material Audits.** The Participant agrees that the LPMA may, from time to time, audit the records of the Participant, through the use of a firm of chartered accountants with respect to the Sale and/or supply of Program Products. Audits may include random bale tracking to verify chain of custody of materials.

6. **General**

6.1 **Notice.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each a "**Notice**") shall be in writing and is deemed to have been given:

- (a) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested);
- (b) on the date sent by e-mail if sent during normal business hours of the recipient, and on the next Business Day is any day that if sent after normal business hours of the recipient; or

- (c) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.
- 6.2 Notices shall be delivered to a party at the address for Notice it designates from time to time by Notice delivered to the other party or, if a party has not designated an address for Notice, to last known registered office address on the public records for such party.
- 6.3 **Assignment.** In order to facilitate the management and administration of the Program, or as may otherwise be required for compliance with local or state-level laws, LPMA reserves the right to: assign any of its rights arising under this Agreement, any Plans or Rules, in whole or in part, to a Subsidiary, including, but not limited to, the creation, management and administration of any Plan or Rule or the collection of any dues, or other amounts owing by the Participant to LPMA, subject to thirty (30) days advance written Notice of the assignment to the Participant. The Participant agrees to be bound by and comply with any such Plans or Rules, or parts of them, that are created, managed administered, delegated to, or otherwise carried out by a Subsidiary.
- 6.4 **Severability.**
- (a) If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.
  - (b) If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision in place of the provision so deleted.
- 6.5 **No assignment by Participant.** The Participant shall not assign or otherwise transfer this Agreement without the prior written consent of the LPMA.
- 6.6 **No partnership.** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties.
- 6.7 **No waiver.** No waiver under this Agreement is effective unless it is in writing, identified as a waiver to this Agreement and signed by the party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion.
- 6.8 **Counterparts.** Transmission of an executed copy of this Agreement by email (in PDF) or other electronic or digital transmission (including by transmission over an electronic signature platform acceptable to the LPMA such as DocuSign or the equivalent thereof) shall take effect as the transmission of an executed by handwritten signature of this Agreement.

[signature page follows]

In consideration of the mutual promises set out above the Participant and LPMA have caused this Participation Agreement to be executed under the hands of their respective officers.

**Participant Name:**

\_\_\_\_\_

Per: \_\_\_\_\_

Authorized Signatory

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

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

**Appendix A**

**Lubricants Packaging Management Association  
Brands and Products Information Form  
Vermont**

**Date:** \_\_\_\_\_, 20\_\_

**Participant name:** \_\_\_\_\_  
*(full legal entity name of the Participant/Manufacturer)*

**Participant Brands (*list below*):**

**Participant Program Products (*list below*):**

**Primary contact person for the Participant:**

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

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

Business e-mail: \_\_\_\_\_

Business address: \_\_\_\_\_

**Acknowledgment:** By submitting this form, you confirm for and on behalf of the Participant named above that the information provided is accurate and up to date.

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

Name (*print*): \_\_\_\_\_

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

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