



LUBRICANTS PACKAGING MANAGEMENT ASSOCIATION

Participation Agreement *Maine*

JULY 15, 2025

1. **Interpretation**

1.1 In this Agreement, unless the context otherwise requires:

- (a) **“Agreement”** means this Participation Agreement.
- (b) **“Brand”** means a name, symbol, word or mark that identifies a product, rather than its components, and attributes the product to the owner of the brand.
- (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 Maine holidays or federal legal holidays.
- (e) **“Exempt Material”** means any material identified as exempt from the Program on the LPMA Applicable Products List; or
- (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) **“Franchisee”** means a person that is granted a franchise by a franchisor authorizing the use of the franchisor’s trade name, service mark or related characteristic and the sharing of the franchisor’s proprietary knowledge or processes pursuant to an oral or written arrangement for a definite or indefinite period.
- (h) **“Franchisor”** means a person that grants to a franchisee a franchise authorizing the use of the person’s trade name, service mark or related characteristic and the sharing of the person’s proprietary knowledge or processes pursuant to an oral or written arrangement for a definite or indefinite period.
- (i) **“LPMA”** means the Lubricants Packaging Management Association.
- (j) **“Notice”** is defined in section 6.1.

“Packaging” means a discrete type of material, or a category of material that includes multiple discrete types of material with similar management requirements and similar commodity values, used for the containment, protection, delivery, presentation or distribution of a product, including a product sold over the Internet, at the time that the product leaves a point of sale with or is received by the consumer of the product. "Packaging material" does not include a discrete type of material, or a category of material that includes multiple discrete types of material, that is intended to be used for the long-term storage or protection of a durable product and that can be expected to be usable for that purpose for a period of at least 5 years; or
- (k) **“Participant”** means the undersigned Producer who is a participant in the Program pursuant to this Agreement.
- (l) **“Participant Fees/Dues”** means any fees or other dues payable by a Participant in respect of Program Materials in the amounts set out in the Fees/Dues Schedule and in accordance with the Plan.
- (m) **“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.

- (n) **“Plan”** means the LPMA’s plan respecting implementation and administration of the Program in the State.
- (o) **“Producer”** means, a Person who:
- (i) Has legal ownership of the brand of a product sold, offered for sale or distributed for sale in or into the State contained, protected, delivered, presented or distributed in or using Program Material;
 - (ii) Is the sole entity that imports into the State for sale, offer for sale or distribution for sale in or into the State a product contained, protected, delivered, presented or distributed in or using Program Material that is branded by a person that meets the requirements of subparagraph (1) and has no physical presence in the United States.
- "Producer" includes a producer that sold, offered for sale or distributed for sale in or into the State during the prior calendar year products contained, protected, delivered, presented or distributed in or using more than one ton but less than 15 tons of packaging material in total, but does not include the franchisee operating that franchise.
- "Producer" does not include:
- (iii) a nonprofit organization exempt from taxation under the United States Internal Revenue Code of 1986, Section 501(c)(3);
 - (iv) the producer sold, offered for sale or distributed for sale in or into the State during the prior calendar year products contained, protected, delivered, presented or distributed in or using less than one ton of Packaging in total
 - (v) a producer that realized less than \$2,000,000 in total gross revenue during the prior calendar year, except that, for the period beginning one calendar year following the effective date of the contract entered into by the department and the stewardship organization pursuant to subsection 3 and ending 3 years after that effective date, a producer that realized less than \$5,000,000 in total gross revenue during the prior calendar year is exempt from the requirements and prohibitions of this section
- (p) **“Program”** means the system, method, or other mechanisms implemented by the LPMA for the management of Program Materials in the State in accordance with the Plan.
- (q) **“Program Material”** means any Packaging for products as 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. “Program Material” does not include Exempt Material.
- (r) **“Proprietary Information”** is defined in section 4.1.
- (s) **“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.
- (t) **“Sale”** or **“Sell”** means any transfer for consideration of title or of the right to use by lease or sales contract a Program Material to a Person in the State. “Sell” or “Sale” does not include the sale, resale, lease, or transfer of a used Program Material or a Producer’s wholesale transaction with a distributor or a retailer.

- (u) **“State”** means the State of Maine.
- (v) **“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 Producer 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 Materials, 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 Materials. 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 in the Program, and will continue thereafter for a period of 1 year. Thereafter, this Agreement and the obligations flowing therefrom shall automatically renew for successive 1-year terms on the

anniversary date of the approval of the Participant's participation in the Program, unless the Participant gives written Notice of termination to the LPMA at least 60 days prior to the end of the then current term.

3.2 **Termination.**

- (a) Where the Participant has given written Notice of its intention to terminate this Agreement in accordance with the notice period in section 3.1 above, this Agreement shall terminate at the end of the then current term.
- (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. **Proprietary Information**

4.1 "**Proprietary Information**" means information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available.

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 Materials 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 Producers participating in the Program for analytical, reporting or statistical purposes, including without limitation for inclusion in the LPMA's annual report or reports to relevant State authorities in accordance with applicable State law, 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 Materials 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 and universal product code (UPC) of each the Participant's Program Materials, 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 Materials. 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]

By executing the Agreement where indicated below, the Participant agrees to be bound by the terms and conditions of this Agreement.

Participant name:

(print full registered company name above)

Per: _____

Authorized Signatory

Name: _____

Title: _____

Appendix A

**LUBRICANTS PACKAGING MANAGEMENT ASSOCIATION
Brands and Products Information Form
Maine**

Date: _____, 20__

Participant name: _____
(full legal entity name of the Participant/Producer)

Participant Brands (*list below*):

Participant Program Materials and UPCs (*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: _____