

# Sales Terms and Conditions

These terms and conditions ("Agreement") will apply to any agreement to which they are attached, in which they are incorporated by reference, or which is found on the other side of these terms in accordance with our ISO9001/TS29001 or similar QMS Standard Requirements. In the event of a conflict between any agreement and these terms and conditions, this Agreement will control. In the Agreement the term "Products" refers to the petroleum products sold by Corrigan Oil Company II, any of its subsidiaries or related entities, ("Seller") under this agreement to the buyer identified in the Agreement ("Buyer").

**1. Payment and Terms:** Payment terms are subject to change by Seller at any time. If Seller does not receive payment when due, it may impose a late payment charge if 1 ½% per month, not to exceed the maximum amount allowed by the law and if the account is placed in collection or suit is filed thereon, Seller will be entitled to attorney fees and court costs. **PAYMENTS TENDERED IN FULL SETTLEMENT OF A DISPUTED AMOUNT MUST BE CLEARLY LABELED AS SUCH AND SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO: COMMERCIAL CREDIT MANAGER, CORRIGAN OIL COMPANY, 775 N. 2<sup>ND</sup> ST., BRIGHTON, MI 48116.** Seller may offset amounts owed by Buyer to Seller of its subsidiaries or affiliates against amounts owed by Seller to Buyer. Terms will be set at the sole discretion of the Seller's credit department. If at any time Seller deems Buyer's credit unsatisfactory or in any way impaired, Seller reserves the right, among other remedies, to terminate or suspend supplying Products to Buyer and/or require payment in advance of delivery.

**2. Taxes:** Buyer will pay and indemnify Seller for all taxes, fees, duties, environmental levies and other charges (whether imposed on manufacture, processing, use, purchase, sale, resale, delivery, receipt, title transfer, inspection, removal from storage, measurement or passage through a measurement device, receipt of payment or other activity, and regardless of when imposed) relating to Products, or their raw materials or feedstock's. The sole exception to this obligation is taxes based on or measured by Sellers net income or worth. Upon account set up, Buyer will promptly furnish Seller with the Buyers appropriate state tax registration number(s), its federal identification number and any applicable tax exemption status that may occur after account set up.

**3. Delivery and Cancellation:** All sales will be F.O.B. the "Ship From" location stated in this Agreement, unless this Agreement clearly provides otherwise. Title and risk of loss will pass to Buyer at the "Ship From" location as Product passes (as applicable) the transport truck or railcar inlet flange, barge permanent hose connection or pipeline upstream flange. Title and risk of loss will not be affected by Sellers ownership of the transportation assets, arrangement of shipment, and/or pre-payment of collections of shipment expenses from Buyer. Seller will have no obligation to deliver Product at the "Ship From" location unless Buyer, its agents, and its carriers have entered into and are in compliance with agreements governing access to the "Ship From" location.

Where this Agreement clearly provides that delivery is F.O.B. the "Ship To" destination, title and risk of loss will pass to Buyer at the "Ship To" destination as Product passes (as applicable) the transport truck or railcar outlet flange, barge permanent hose connection, or pipeline downstream flange. Where shipment is by railcar and Buyer is unable to accept delivery of the railcar when offered, then title and risk of loss will pass to the Buyer at the time of constructive placement of the railcar. Buyer will pay and be responsible for any demurrage, fleeting, shifting, parking, detention, port or other charges related to receipt of delivery of Product, unless solely caused by Seller.

For all nonstandard goods any non-acceptance or cancellation of any order for products which is not consented to in writing by Seller shall entitle Seller to recover cancellation charges which includes the full price of the products or services as well as all other costs incurred by Seller related to development, design, manufacture, or sale of such products.

**4. Quantity and Inspection:** Buyer shall carefully inspect all deliveries of products upon receipt and report to Seller promptly any alleged error, shortage, defect or nonconformity of such products. Buyer waives any claim or right to revoke acceptance if Buyer fails to so inspect and report promptly. Quantities will be determined by (in order of preference) calibrated meters; terminal tank gauges or any applicable ASTM method. Quantities may be temperature-adjusted to 60°F, at Seller's option, using built-in temperature compensators or ASTM tables. Either party may require that Product quantity and quality be determined by a jointly-selected, licensed petroleum inspector, whose findings will be conclusive. Customary inspection costs will be shared equally, but additional services will be paid for by the party requesting them.

**5. Compliance with Laws:** Buyer, its agents and its carriers will comply with all laws, regulations and standards applicable to the sale, delivery (including loading, unloading and/or transloading), transportation, storage, use and disposition of Products, and Buyer will not deliver, or allow to be delivered, to an RVP or RFG control area any Product that would be in violation of U.S. EPA regulations applicable to that area. Buyer will require similar commitments from its purchasers. Blend grade gasoline is for use as blending component only.

**6. Safety and Health:** Material Safety Data Sheets (MSDS) for Products are available by customer request to Whitmore Lake Laboratory. Buyer has received Material Safety Data Sheets and other information about the safety and health aspects of Products, will communicate this information to its employees, agents, carriers and customers, and will require them to further communicate this information in a like manner.

**7. Warranties:** Seller warrants title to all Products supplied hereunder at the time of delivery to Buyer and that each Product supplies hereunder will comply with all applicable federal, state and local rules and regulations in effect at the time and place title thereto passes to Buyer. **CORRIGAN OIL COMPANY II DISCLAIMS ANY AND ALL OTHER WARRANTIES AND REPRESENTATIONS WITH RESPECT TO THE PERFORMANCE OR QUALITY OF PRODUCTS SUPPLIED HEREUNDER INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR BUYERS PARTICULAR OR INTENDED PURPOSE OR USAGE.** Seller will, at its option and its cost (including expense of return and re-delivery), remedy the defect in, replace, or refund the purchase of any Product that fails to meet this warranty. **THIS IS THE BUYERS EXCLUSIVE REMEDY FOR BREACH OF WARRANTY.**

**8. Claims:** All claims must be in writing. Product quality or quantity claims must be delivered to Seller within 30 days after delivery of the Product, and all other claims by the Buyer must be delivered to Seller within 60 days after the event giving rise to the claim. Buyer will preserve and permit Seller to inspect and sample the subject Product. **ANY LAWSUIT AGAINST SELLER WHICH INVOLVES THIS AGREEMENT OR THE SALE OF PRODUCTS MUST BE BROUGHT WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES.**

**9. Limitation of Liability:** IN NO EVENT WILL SELLERS LIABILITY FOR DAMAGES (WHETHER ARISING FROM BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), EXCEED THE PURCHASE PRICE OF THE PRODUCT CONCERNED NOR WILL SELLER BE LIABLE FOR PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES (INCLUDING LOST PROFITS), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**10. Force Majeure and Allocation:** Neither party will be liable to the other for any delay or failure in performance (other than to make payments when due) to the extent that it is caused by circumstances beyond its reasonable control, or by fire; explosion; flood; earthquake; storm; act of God; mechanical breakdown; sabotage or vandalism; strike or other labor disturbance (Seller will not be required to settle a labor dispute or take an action that might involve a labor dispute); shortages of, or delays in obtaining, crude oil, feedstock's, raw materials or finished products, equipment, labor, transportation, or storage; interruption of utility services; or compliance with any law, regulation or order (regardless of validity) of any governmental or military authority. Further, if Seller at any time decides that its Product supply is insufficient to meet the actual or forecasted needs of Seller, its divisions and subsidiaries and its and their customers (whether under contract or not), Seller may allocate its supply among all of them in any fair and reasonable manner determined by Seller.

**11. Indemnity:** Buyer will indemnify and defend Seller and its employees and agents against any loss, claim, liability (actual or alleged), fine, penalty or expense (including court costs, attorney fees and litigation expenses), of any kind (including those based in tort, warranty or strict liability), arising out of or in connection with: (I) the performance of this Agreement; (II) any failure of Buyer, its agents or employees to comply with the terms and conditions of this Agreement; (III) any act of failure to act in the handling, storage, transportation, loading, unloading, transloading, resale, or other use, by Buyer or others of a Product sold under this Agreement. The only exception to this obligation is when Sellers negligence or intentional misconduct is determined by a court to be the sole cause of the damage. In responding to any third-party claims, Seller may select an attorney and may enter into any settlement without affecting this obligation.

**12. Default:** Seller may terminate this Agreement in the event of a material default by Buyer which is not cured within 10 days after notice of default is given. Seller may also terminate this Agreement at once (and Buyer will have no right to cure) if Buyer either fails to pay any amount when due or violates the provisions of paragraph 14 below. The right to terminate is in addition to any other remedy that may be available. A waiver of a default in one instance does not extend to any subsequent default.

**13. Export Sales:** For any Product that will be exported from the U.S.A. by Buyer or another party, all export related requirements are the sole responsibility of Buyer or the Exporter. Seller is not responsible for compliance with U.S. export control laws or requirements in such transactions unless it agrees to assume that responsibility in writing. Further no Product received from Seller is intended by Seller to be shipped, either directly or indirectly, to any country, entity or person or for any end-use that is prohibited under the EAR, OFAC regulations, ITAR or as otherwise prohibited by any applicable law or regulation. Any diversion to U.S. law is strictly prohibited. For any Product that will be exported from the U.S.A. by Buyer, Seller reserves all the rights as a manufacturer under 19 U.S.C. §1313 and related regulations and reserves all rights to claim drawback. Buyer will provide Seller with proof of export satisfactory to Seller and any other information needed by Seller for the timely and accurate filing of Sellers claim.

**14. Trademarks:** Buyer will not use Seller's name, trade or service marks or trade dress in any way with regard to the Products.

**15. General:** (A) The sale of Products to Buyer, and this Agreement, will be governed by Michigan law, without giving effect to its principles of conflict of laws provisions and excluding the United Nations Convention on Contracts for the International Sales of Goods. (B) Buyers obligations in paragraphs 2, 5, 6, 11, 13, and 14 above will survive termination of this Agreement. (C) The invalidity or unenforceability of any part of this Agreement will not affect the validity or enforceability of its remaining provisions. (D) This Agreement, and any rights or duties under it may not be assigned or delegated by Buyer; any attempted assignment or delegation by Buyer will be void. (E) In the event of a sale or transfer of all or substantially all of Buyers equity shares or assets, or a controlling interest in either, by merger, acquisition, exchange, joint venture, or other similar transaction, Seller may at its sole option, immediately terminate this Agreement. (F) No claim or notice relating to this Agreement to be given to Seller will be valid unless sent by certified mail return receipt requested or by a national overnight courier service to Seller addressed as follows: Manager, Wholesale Marketing, Corrigan Oil Company, 775 N 2<sup>nd</sup> St., Brighton, MI 48116.

All notices given by Seller to Buyer may be sent to the addresses shown on the most recent written correspondence sent to Seller by Buyer, or to such addresses as may be requested in writing by Buyer in the future. (G) No amendment or modification of this Agreement will be valid unless made in a writing signed by authorized representatives of both parties. Any attempt by either party, through a job order, purchase order, invoice or other document to vary in any degree any of the terms of this Agreement will be deemed immaterial and will be void unless contained in an amendment executed as specified hereinabove. (H) No failure to exercise or elections not to exercise any of a party's rights hereunder will constitute any waiver or modification of such rights, or be deemed to be a course of performance or dealing, modifying or waiving the parties' rights, remedies, duties, obligations or liabilities under this Agreement or any part thereof. (I) This Agreement contains the entire agreement of the parties with respect to its subject matter.

**16. Arbitration:** Buyer will attempt to resolve any claim, dispute or controversy (whether in contract, tort or otherwise) against Seller, arising out of or relating to this Agreement, or any other Seller products ("Dispute") through negotiations with personal fully authorized to resolve the Dispute. If the parties are unable to resolve the Dispute through negotiation within a reasonable time after the written notice from one party to the other that

a Dispute exists, the Dispute will be settled by binding arbitration in a location of the Seller's discretion and in accordance with procedures and protocols set forth by the American Arbitration Association. The arbitrators shall base their award strictly on the terms of this Agreement. The arbitrator shall render their award in writing and will include the findings of fact and conclusion of law upon which their award is based. Judgment upon the arbitration award may be entered by any court of competent jurisdiction. The existence or results of any negotiation or arbitration will be treated as confidential. Notwithstanding the foregoing: (a) Seller will have the right to obtain from a court of competent jurisdiction a temporary restraining order, preliminary injunction or other equitable relief to preserve the status quo or prevent irreparable harm.