



Base Oils

**PHILLIPS 66 COMPANY  
GENERAL TERMS AND CONDITIONS FOR  
BASE OIL SALES**

1. **ACCEPTANCE OF TERMS**

Seller's acceptance of Buyer's order is expressly made conditional on Buyer's assent to the terms and conditions herein set forth notwithstanding the provisions contained in any purchase order, acknowledgment, acceptance or other document of Buyer. Each delivery of the goods by Seller shall be deemed to be solely upon the terms and conditions of this document; provided, however, that any conflicting provisions of a separate written contract or a written amendment to this document signed by an authorized representative of Seller shall control. For the purposes of the terms and conditions set forth herein, "Parties" shall mean "Buyer" and "Seller" collectively. "Party" means either Buyer or Seller, individually. "Phillips 66" or "Seller" means Phillips 66 Company.

2. **PRICE**

Unless otherwise agreed in writing by the Parties hereto, the price for the goods shall be Seller's current price in effect at the time of shipment. A price stated herein may be adjusted, at Seller's option, including but not limited to any increase in Seller's transportation cost for the goods (if sold on a delivered basis) placed into effect between the date hereof and the time of shipment.

3. **TAXES**

Any tax, excise or other governmental charge imposed upon the production, sale or transportation of any goods sold hereunder which Seller may be required to pay, shall be paid by Buyer to Seller in addition to the purchase price.

4. **PRICE CONTROLS**

In the event any governmental law, regulation or order prohibits Seller, in its opinion, from collecting from Buyer a price for the goods herein provided for, Seller may without liability to Buyer, cancel Buyer's order as to future shipments by giving Buyer written notice of cancellation.

5. **PAYMENT; CREDIT**

Buyer shall remit payment by ACH or Direct Debit to Seller in U.S. currency in accordance with the payment terms designated in each invoice. Seller shall have the right where permitted by law to assess a delinquency charge on each invoice not timely paid. Any credit Seller may elect to extend to Buyer shall be upon Seller's credit terms. If, in Seller's judgment, Buyer's credit is impaired or unsatisfactory, or if Buyer fails to make any payment due Seller, Seller may suspend deliveries until such time as Buyer has made satisfactory credit arrangements with Seller or require Buyer to pay cash in advance. Seller may offset any amounts owed to Buyer against any amount owed to Seller, including pursuant to other agreements between the parties.

6. **TITLE; RISK OF LOSS**

For all deliveries of goods, title and risk of loss shall convey thereto when the goods pass through the flange which connects the loading hose/arm to the carrier's mode of transportation or, in the case of delivery outside of the continental United States of America ("U.S."), in accordance with the mutually agreed INCOTERMS 2010 provision.

7. **DELIVERIES**

If Buyer arranges transport of goods, the carrier and mode of transportation must be in compliance with the policies of the loading facility in addition to any and all governmental or regulatory requirements. Seller shall have the right to inspect any equipment tendered and to reject any equipment or carrier which does not, in Seller's sole judgment, meet all of the aforementioned requirements. All charges associated with the rejection of the equipment will be borne by Buyer. In the event that Seller incurs any costs due to the condition or operation of Buyer's provided equipment, Buyer's negligence or wilful acts or omissions, or Buyer's lack of compliance with environmental laws, such costs shall be reimbursed to Seller by Buyer. Buyer assumes full responsibility for use and condition of railcars, trucks or barges while in Buyer's possession and agrees to (a) compensate Seller for all loss or damage to Seller's property, and (b) indemnify and hold Seller harmless from any loss or damage to property other than Seller's and from any injuries to persons relating in any way to the use of such railcar, truck, isotank or barge while such are in Buyer's possession.

Buyer further agrees to report to Seller promptly any damage which may be sustained by the railcar, truck or barge in Buyer's possession.

If Seller arranges transport of goods, the selection of carrier and routing of shipments shall be at Seller's option. Shipment of goods by Seller shall be made within a reasonable period of time after confirmation of Buyer's order. Seller reserves the right to ship, and Buyer agrees to accept and pay for quantity within 10% plus or minus of the quantity ordered. Seller's weights and/or measurements taken at the shipping point shall control. Product measurement shall be determined by weighing, metering, or other recognized gauging method selected by Seller.

**RAIL:** If Seller arranges transport by rail, Buyer shall promptly unload all tank cars furnished or arranged for by Seller and shall weighbill and route the empty tank cars as Seller may direct. In the event Buyer shall fail to unload and release to the carrier any tank car within the seven (7) free days allowed, Buyer shall pay to Seller a flat rate per day in accordance with Seller's policy in effect at the time. Computations for the free days and detention charges will be based on the number of calendar days starting when the carrier places the car (either constructive or actual placement) and ending when Buyer releases the car.

**TRUCK:** If Seller arranges transport by truck, Buyer shall promptly unload all trucks and release them within two (2) hours of the trucks arrival. In the event Buyer shall fail to unload and release the truck within two (2) hours of arrival, Buyer shall pay to Seller detention charges in accordance with Seller's policy in effect at the time.

**VESSELS & BARGES:** Phillips 66 Marine Provisions (located at <http://baseoil.phillips66.com/EN/Pages/index.aspx> under Policies) shall be applicable for waterborne deliveries at Seller's facilities.

## 8. **MEASUREMENT/VOLUME DETERMINATIONS:**

**GENERAL:** Measurement and sampling procedures, testing, volume corrections, meter proving, and calibrations shall be made in accordance with the most current international measurement, sampling and analysis standards (API Manual of Petroleum Measurement Standards ("MPMS"), The Energy Institute Hydrocarbon Management ("HM"), ISO, NIST and ASTM). Volumes shall be based on a 231 cubic inch gallon at 60 degrees Fahrenheit. Measured product volumes shall be adjusted to a temperature of 60 degrees Fahrenheit and a pressure of one standard atmosphere (14.7 PSIA) per the most recent API MPMS Chapter 11 e.g. Table 6A, 6B etc. (table appropriate for the Product).

**MARINE:** Cargo quantity delivered/received shall be determined by a mutually appointed Independent Inspection Company ("IIC") and is the basis for preparing relevant shipping documents save fraud or manifest error. In the absence of an IIC, terminals measurements are final and binding save fraud or manifest error. The quantity of product delivered/received hereunder shall be determined by one of the following methods in the following order of preference:

- 1) Custody transfer grade meter(s).
- 2) Shore tank measurements (static tank), as determined by the IIC.
- 3) In the event of an active (versus static) shore tank during any part of the transfer, or if IIC determines shore quantities to be inaccurate or not representative of the cargo transferred, quantity shall be based on the volumes as determined from measurements of the vessel before and after the transfer with application of a vessel experience factor ("VEF"), if determined valid and applicable by the IIC.
- 4) In the event the IIC determines that the above custody transfer measurement points are determined to be inaccurate or not representative of the volume(s) of cargo transferred, the parties agree to negotiate in good faith and without prejudice, a new basis for custody transfer volumes.

**RAIL CAR:** Product quantities received from or delivered to rail cars at rail racks shall be determined by calibrated - custody transfer grade meters. If meters are not available or malfunction (e.g. deemed to be inaccurate), or if verification of meter performance is not possible, quantity shall be based on the following order of preference; certified rail weigh scales, rail car outage gauges with applicable certified strapping tables.

**TRUCK:** Product quantities received from or delivered to truck tanks at truck racks shall be determined by calibrated - custody transfer grade meters. If meters are not available or malfunction (e.g. deemed to be inaccurate), or if verification of meter performance is not possible, quantity shall be based on the following order of preference; certified truck weigh scales, truck tank outage gauges with applicable certified strapping tables.

**SAMPLING/ANALYSIS QUALITY DETERMINATION:** Quality testing shall be performed by a certified laboratory in accordance with latest published ASTM methods. Testing reports shall be made available to Buyer.

Each commercial Party shall be allowed to have representatives witness all measurement processes and systems, including but not limited to testing, calibration of equipment, sampling, meter reading, and gauging, provided adequate notification is given to interested parties.

## 9. **CLAIMS**

CLAIMS AS TO SHORTAGE IN QUANTITY, DEFECTS IN QUALITY, OR ANY OTHERS, EXCEPT FOR DEMURRAGE, SHALL BE MADE BY WRITTEN NOTICE TO SELLER WITHIN SEVEN (7) DAYS AFTER THE DELIVERY IN QUESTION; ALONG WITH WRITTEN NOTIFICATION PROVIDED TO SELLER PRIOR TO

UNLOADING OF GOODS FROM THE CARRIER, OR SUCH CLAIM(S) SHALL BE DEEMED WAIVED. Seller shall have the right to inspect the goods prior to unloading if Buyer issues such notification. Upon verification, Seller shall resolve any such shortages exceeding 0.5% loss or replace any such defective products without additional charges, or in lieu thereof, at Seller's option, Seller may refund the purchase price upon return of the products at Seller's expense. Laytime and demurrage claims, if any, shall be submitted in reasonable detail within thirty (30) days from the completion of loading/discharge.

10. **LIMITATION OF LIABILITY AND INDEMNITY**

SELLER'S TOTAL LIABILITY TO BUYER FOR ANY AND ALL CLAIMS, LOSSES OR DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER, WHETHER BASED IN CONTRACT, NEGLIGENCE, GROSS NEGLIGENCE, WILFUL MISCONDUCT OR OTHER TORT, STRICT LIABILITY, BREACH OF WARRANTY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS IN RESPECT TO WHICH SUCH CASE AROSE. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR LOST PROFITS, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES. Except as set forth in Section 9 above, any cause of action that a Party may have against the other Party arising from the sale of goods hereunder must be commenced within one hundred (100) days after the cause of action has accrued.

Seller and Buyer mutually covenant to protect, defend, indemnify and hold each other harmless from and against any and all claims, demands, suits, losses, expenses (including without limitation, costs of defense, attorney's fees and interest), damages, fines, penalties, causes of action and liabilities of every type and character, including but not limited to personal injury or death to any person including employees of either Party or loss or damage to any personal or real property, caused by, arising out of or resulting from the acts or omissions of negligence or wilful acts of such indemnifying Party, its officers, employees or agents with respect to the purchase and sale of goods or products hereunder. In the event the Parties are jointly and/or concurrently negligent, each Party shall indemnify the other Party to the extent of its negligent acts or omissions or wilful acts. In the event the Parties are jointly and/or concurrently negligent, each Party shall indemnify the other Party to the extent of its negligent acts or omissions or wilful acts.

The goods or products sold by Seller to Buyer may contain one or more chemicals known to the State of California to cause cancer, birth defects or reproductive harm. Accordingly, in the event that the goods or products are sold at retail in California, Buyer shall ensure, and shall require its buyer to ensure, compliance with the goods or product warnings required pursuant to California Health and Safety Code section 25495 et seq., colloquially known as "Proposition 65" or "Prop 65," and 27 Cal. Code Reg. sec. 25102 et seq. (and in particular, the notice information required pursuant to California Health and Safety Code section 25600.2(b)(1)-(4)) (collectively, the "CA Regulation"). Buyer shall indemnify and hold Seller, its agents and employees, harmless against any fine, penalty, or liability, cost and expense (including without limitation court costs and attorneys' fees) arising out of any failure by Buyer to observe or comply with the CA Regulation.

11. **LIMITED WARRANTY**

Seller warrants that the goods sold hereunder shall meet Seller's specifications at time of delivery. OTHER THAN THE FOREGOING, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY OR FITNESS OF THE PRODUCT FOR ANY PARTICULAR USE OR OTHERWISE, WHETHER USED SINGLY OR IN COMBINATION WITH OTHER SUBSTANCES OR IN ANY PROCESS.

12. **TECHNICAL INFORMATION**

Any technical advice or assistance furnished by Seller to Buyer with respect to the selection or use of the goods sold to Buyer hereunder shall be given and accepted at Buyer's sole risk, and Seller shall have no liability whatsoever for the use of, or results obtained from, such advice or assistance whether or not based on negligence. Seller shall furnish to Buyer Safety Data Sheets and Certificates of Analysis for goods sold hereunder.

13. **PRODUCT DISCONTINUANCE; SPECIFICATION CHANGES**

Seller may at its discretion: (a) change or alter the quality or specifications of any goods sold hereunder; (b) discontinue the manufacture of any such goods; or (c) discontinue the manufacture of any such goods at a particular manufacturing or blending facility.

14. **EXPORT COMPLIANCE, SANCTIONS, ANTI-CORRUPTION, AND ANTI-BOYCOTT COMPLIANCE**

**EXPORT COMPLIANCE AND SANCTIONS:** In the event that the commodity subject to this agreement is to be exported, each Party warrants to the other Party that it, and each other person or entity for whose actions such Party may be held accountable, will comply with all applicable laws, regulations, rules and requirements relating to export and re-export control and sanctions, including but not limited to the U.S. Export Administration Regulations, U.S. Treasury Department's Office of Foreign Assets Control regulations, the U.S. International Traffic in Arms Regulations (together, "Export and Sanctions Law"). Nothing shall be shipped to, transshipped through, or sourced from, directly

or indirectly, any country, company or individual or for any end-use that is prohibited under Export and Sanctions Law. If either Party or any other person or entity for whose actions such Party may be held accountable is or becomes identified on any government export denial, blocked, debarred, Specially Designated National, or other similar list, the other Party may terminate this agreement upon written notice to the other Party at any time. Each Party shall be excused from performance of any obligation under this agreement if such performance is prohibited under Export and Sanctions Law.

**ANTI-CORRUPTION:** Each Party shall comply with all applicable anti-bribery and anti-money laundering laws, rules, and regulations of the United States, United Kingdom, European Union or any member state thereof, the Republic of Singapore, Canada, and any other similar laws in all applicable jurisdictions, including without limitation, the currently effective or successor versions of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act 2010, UK anti-money laundering and anti-terrorism laws and regulations, the Canadian Corruption of Foreign Public Officials Act, and the Singapore Prevention of Corruption Act.

**ANTI-BOYCOTT:** Nothing in this agreement is intended to be, or shall be construed as, an agreement by either Party to take or refrain from taking any action that is or would be prohibited by or penalized under US anti-boycott laws or regulations.

**CONFLICTS OF INTEREST/PRINCIPLES OF CONDUCT:** Neither Party shall, directly or indirectly, pay salaries, commissions or fees, or make payments or rebates to employees or officers of the other Party; or favor employees or officers of the other Party or their designees with gifts or entertainment of unreasonable cost or value or services or goods sold at less than full market value; or enter into business arrangements with employees or officers of the other Party unless such employees or officers are acting as representatives of the other Party. Phillips 66 and its subsidiaries are committed to the highest standard of business ethics and conduct. Expectations of business partners of Phillips 66 and its subsidiaries can be found in the Phillips 66 Business Partner Principles of Conduct, available at [www.Phillips66.com](http://www.Phillips66.com).

**VIOLATION AND REMEDY PROVISIONS:** Either Party may terminate this agreement immediately upon written notice to the other Party if the other Party is in breach of the above clauses or fails to cooperate by providing information demonstrating compliance herewith. Violation of these clauses shall be deemed a material breach of this agreement. Each Party agrees to indemnify the other Party for any fines, penalties, claims, losses, damages, costs (including legal costs), expenses, and liabilities that may arise as a result of the indemnifying Party's breach of its obligations under these clauses.

**ORDER OF PREFERENCE:** In the event of a conflict between this section and any other provision, the terms of this section shall prevail.

15. **FORCE MAJEURE**

Neither Party shall be liable to the other for failure or delay in performance hereunder to the extent that such failure or delay is due to war, fire, flood, strike, lockout or other labor trouble, accident, breakdown of equipment or machinery, riot, act or request of governmental authority, act of God, or other contingencies beyond the control of the affected Party which interfere with the production, throughput, or transportation of the goods sold hereunder or with the supply of any raw material, provided that in no event shall Buyer be relieved of the obligation to pay in full for goods received. The affected Party shall use reasonable efforts to remedy the force majeure; provided, however, the settlement of strikes, lockouts, industrial disputes, or disturbances shall be entirely within the discretion of the Party so settling. The Party affected by an event of force majeure shall give prompt written notice to the other Party of the occurrence of such event.

16. **ALLOCATION**

Seller shall have the right to allocate goods or raw material in its sole discretion among Seller's customers and Seller's own requirements.

17. **GOVERNING LAW**

THIS CONTRACT SHALL BE INTERPRETED UNDER AND GOVERNED BY THE LAW OF THE STATE OF TEXAS WITHOUT REGARD TO ITS CONFLICTS OF LAW RULES.

18. **CONFIDENTIALITY**

During the term of a sales agreement and for one year thereafter, neither Party shall disclose the terms or conditions of any sales agreement to any third party (other than a Party's employees, lenders, counsel, accountants or advisors that have a need to know such information and have agreed to keep it confidential) except in order to comply with any applicable law, regulation, any exchange or in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. Notwithstanding the foregoing, a Party may elect to report a sales agreement to a price index publication in which case the product description, volume, price, delivery point and delivery date may be disclosed but the identity of the counterparty shall remain confidential. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation.

19. **MISCELLANEOUS**

19.1 No Agreement shall be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Each assigned Agreement shall be binding upon and shall inure to the benefit of the Parties and their permitted successors and assigns. Notwithstanding the foregoing, Phillips 66 shall have the right to assign any Agreements to a creditworthy affiliate without the necessity of obtaining the Buyer's consent thereto. Such assigned Agreements shall be subject to terms and conditions that are identical to those set forth herein, except that references to Phillips 66 shall be to the assignee.

19.2 No waiver by either Party of any breach by the other Party of any of the covenants or conditions of these terms and conditions or any Agreement shall be construed as a waiver of any succeeding breach of the same or of any other covenant or condition hereof.

19.3 No statement or agreement, oral or written, made prior to or at the time of entering into an Agreement, shall vary or modify the written terms hereof, and neither Party shall claim any amendment to, modification of, or release from any provisions by mutual agreement unless such agreement is in writing, signed by the other Party. These terms and conditions integrate the entire understanding between the Parties with respect to the subject matter covered and supersedes all prior understandings, drafts, discussions, or statements, whether oral or in writing, expressed or implied, dealing with the same subject matter.

19.4 Each Party represents and warrants to the other Party that: (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (b) the execution, delivery and performance under each Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contract to which it is a party or any law, rule, regulation, order or the like applicable to it; (c) these terms and conditions and each Agreement constitute its legally valid and binding obligation enforceable against it in accordance with its terms, subject, as to enforceability only, to applicable bankruptcy, moratorium, insolvency or similar laws affecting the rights of creditors generally and to general principles of equity; and (d) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.