

**SUNOCO RETAIL LLC
GENERAL TERMS AND CONDITIONS FOR
PROFESSIONAL SERVICES**

Notwithstanding any acceptance, offer, proposal, quotation, acknowledgment or other writing executed by Contractor and Sunoco containing additional or different terms and conditions, commencement of Work by Contractor or any other reasonable form of acceptance shall be deemed an acceptance of all terms hereof. Any additional or different terms and conditions proposed by Contractor shall be deemed rejected unless specifically accepted in writing by Sunoco. All references to "Sunoco" herein shall mean Sunoco Retail LLC, inclusive of all Sunoco parents, affiliates, subsidiaries, and assigns.

1. COMMENCEMENT AND EXECUTION OF THE WORK: Contractor shall commence and carry on the Work under this Contract and shall supply and be represented by competent supervision acceptable to Sunoco, who shall be authorized to act for Contractor in all matters. All directions concerning the Work given in writing to such supervisor shall be as binding as if given directly to Contractor. All skilled personnel employed in connection with this Contract shall qualify therefor by experience and ability. Sunoco may require Contractor to submit proof of such experience and qualifications. Contractor shall employ such safety and security practices as are normal or as required by law for the type of Work authorized hereunder. Should Sunoco so require, Contractor shall comply with Sunoco's Safety and Security Requirements. Contractor shall replace any of its personnel whose Work, at the discretion of Sunoco, is contrary to the requirements of this Contract. Contractor shall not subcontract any obligations hereunder without prior written approval of Sunoco. Contractor shall comply with all local, state and federal rules, regulations, orders, directives and statutes applicable to wage and employment practices and he shall act in the best interest of Sunoco on matters which affect area labor practices and might tend to set precedents. No overtime except spot overtime shall be worked without Sunoco's prior written approval.

2. RECORDS AND AUDITS: Contractor shall keep accurate records of account for all Work performed hereunder; and shall provide copies of same (except of that Work for which a fixed price has been quoted) to the Sunoco as required by Sunoco. Sunoco shall have the right, at all reasonable times during regular business hours, to inspect and audit such records. Contractor shall preserve such records for 36 months after termination/cancellation/completion of this Contract. If the audit discloses that either party owes money to the other, any sums due will be paid within thirty (30) days after the sum due is agreed upon by the parties or determined by a court or other dispute resolution tribunal. In any event, Contractor's right to recover any alleged underpayment shall be waived, unless a claim in writing with full supporting documents is received by Sunoco within 150 days after the end of the particular contract year or the contract term, if less than a year.

3. GUARANTEES AND REMEDIES: Contractor guarantees that all professional services performed by Contractor hereunder shall be in accordance with sound and currently accepted practices and principles normally employed in the industry for the services provided and shall conform to the basic information furnished by Sunoco. Sunoco shall notify Contractor if and in what respect Sunoco determines that any of said Guarantees have not been met. Contractor, at its expense, shall promptly provide the professional Services required to meet the Guarantees. The performance of additional professional Services to meet the Guarantees shall not constitute Sunoco's exclusive remedy under this Contract.

4. TITLE TO PROPERTY: Sunoco shall have title to all Work completed or in progress and to all machinery, equipment, materials and supplies, the cost of which has been paid to Contractor. All studies, designs, drawings, plans, specifications, test results, reports, computer software, inventions, patent rights (including data produced by computer or other electronic means and stored on disc, tape or any other form), copyrights (all of which are hereby considered to be and are created as work made for hire and Contractor agrees to assign said copyright upon request) and other data in any form and in whatever state of completion prepared by Contractor shall be the property of Sunoco upon completion or termination of this Contract. Sunoco shall have the right to use same for any purpose whatsoever without right on the part of Contractor to any additional compensation therefor.

5. INFRINGEMENT: Contractor agrees to defend, indemnify and hold Sunoco harmless from any claim, suit, action or proceeding for infringement in which Sunoco, its parent and its respective subsidiaries and affiliates, is made a defendant whether for actual or alleged infringement of any U.S. or foreign patent, trademark or copyright, or any other property right arising out of Work performed by Contractor under this Contract, and Contractor further agrees to pay and discharge any and all judgments or decrees which may be rendered in any such suit, action or proceeding against Sunoco, its parent or its respective subsidiaries and affiliates including reasonable attorney's fees.

6. TERMINATION, CANCELLATION AND SUSPENSION: If Contractor shall be adjudged bankrupt, or become insolvent, or file for voluntary bankruptcy or be subjected to involuntary bankruptcy proceedings, or enter receivership proceedings, or make an assignment for the benefit of creditors, or if Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled personnel or proper

materials, or if Contractor should fail to perform the Work, or any part thereof, with the diligence necessary to ensure its progress and completion as prescribed by the time schedule and shall fail to take such steps to remedy such default within five (5) days after written notice thereof from Sunoco as Sunoco shall direct; or, should Contractor fail to make prompt payment to vendors or subcontractors for materials or labor, or otherwise is guilty of a violation of any provision of this Contract, then Sunoco, without prejudice to any other rights or remedies expressly provided for herein, may terminate this Contract, or any part hereof, by written notice to Contractor and shall have the right thereafter to take possession of all materials, equipment and the like. In such cases of termination, Sunoco shall be relieved of all further obligations hereunder and Contractor shall be liable to Sunoco for all costs incurred by Sunoco in completing such Work in excess of the total compensation herein defined.

Upon prior written notice, Sunoco, at its option, may cancel this Contract at any time, whether or not Contractor is in default of any of its obligations hereunder. Upon any such cancellation, Contractor agrees to waive any claim for damages, including loss of anticipated profit on account thereof. However, provided that the Contractor is not in default of its obligation hereunder, Sunoco agrees that Contractor shall be paid an amount which when added to all installments previously paid will equal the sum of all costs properly incurred prior to date of cancellation, plus earned profit on such incurred costs, but in no event shall such amount be greater than the Contract price. Such earned profit shall bear the same relationship to such incurred costs as the profit increment of the Contract price bears to the cost increment of such Contract price. Sunoco reserves the right to verify the amounts of such costs and profit increments through an audit of Contractor's records.

Sunoco reserves the right to suspend the Work of the Contractor at any time in Sunoco's sole discretion. Sunoco shall give Contractor written notice of said suspension of Work. Sunoco agrees to pay Contractor for its costs, charges and expenses arising out of the suspension of this Contract caused by the exercise of Sunoco's rights set forth herein. Costs, charges and expenses shall be exclusive of anticipated profit.

Contractor shall include the aforementioned provisions in all subcontracts in which it enters to the end that Sunoco and Contractor shall have the rights therein set forth with respect to each subcontractor.

7. INDEPENDENT CONTRACTOR: Contractor agrees that it is an independent Contractor in the performance of any Work hereunder and that neither it nor its employees shall be considered employees of Sunoco. Contractor shall retain control or direction of the manner and method of performance of Work under this Contract and Sunoco shall have the right of supervision merely as to the result of the Work. Sunoco shall not be responsible for the direct payment of any withholding taxes, social security payments, payments under workmen's compensation or other insurance premiums, or other charges of any kind, except as specifically outlined herein.

Contractor hereby certifies that it will deduct and pay over to the proper governmental authority any withholding taxes or similar assessments which an employer is required to deduct and pay over and Contractor accepts exclusive liability for any payroll taxes or contributions imposed by any federal, state or other governmental authority, covering its agents or employees.

8. TAXES: Unless otherwise required by law, Contractor has exclusive liability for all sales, use, excise and other taxes, charges, or contributions with respect to or imposed on any material or equipment supplied or Work performed by Contractor, including such taxes or contributions imposed on the wages, salaries or other payments to persons employed by Contractor or its subcontractors in the performance of this Contract. Contractor shall pay all such taxes, charges, or contributions before delinquency or discount date and shall hold Sunoco harmless from any liability and expense by reason of Contractor's failure to pay such taxes, charges or contributions.

9. COMPLIANCE WITH LAWS: Seller agrees all worked performed incident to the Contract and all goods furnished under this Contract shall comply with all applicable federal, state and local laws. Specifically, the Seller agrees to comply with the regulations set forth in the Equal Opportunity Clause at 41 CFR 60-250.5(a), 41 CFR 60-741.5(a), 41 CFR 60-1.4 and Section 202 of the Executive Order 11246, and all amendments thereto, unless specifically exempt.

Seller warrants and agrees that it has used and will continue to use due diligence to ensure that during the performance of this Contract, no officer, employee, agent or other representative of Seller has made or will make any payment in violation of any applicable federal, state, or local law or regulation, and all amendments thereto. Seller shall supply such evidence of compliance as Sunoco may require.

- 10. MATERIAL SAFETY DATA SHEET REQUIREMENTS:** Contractor shall contact Sunoco's Safety and Health or Risk Management Departments or other Sunoco's authorized representative to request access to Material Safety Data Sheets for chemicals in the area where Work is to be performed prior to commencing any Work. Contractor shall review these sheets and ensure that its employees are advised of the location and accessibility of this hazard information.

Contractor shall furnish copies of Material Safety Data Sheets to Sunoco for all chemicals to be used while performing Work at Sunoco's facility prior to use of such chemicals. Contractor shall maintain duplicate copies in its field office at the Work site.

- 11. ACCEPTANCE:** When all Work is completed Contractor shall so notify Sunoco, and Sunoco shall have the right to a final review of the Work including any and all records and reports maintained by Contractor in connection with the Work. Sunoco shall either notify Contractor of its acceptance of the Work or issue to Contractor a description of deficiencies requiring correction in order for the Work to conform to the Contracts requirements. Upon correction to Sunoco's satisfaction of such additional deficiencies by Contractor, Sunoco shall be deemed to have accepted the Work, and Contractor shall be relieved of any further responsibility subject to the other terms and conditions herein.
- 12. PERFORMANCE BOND:** If requested by Sunoco, Contractor shall furnish a performance and payment bond covering the faithful performance of this Contract. Such bond shall be in the form and amount with a surety satisfactory to Sunoco. The cost of such bond shall be paid by Sunoco.
- 13. LIABILITY AND INDEMNITY:** CONTRACTOR AGREES TO DEFEND, HOLD HARMLESS AND INDEMNIFY SUNOCO, ITS PARENT, THEIR SUBSIDIARIES AND AFFILIATES, AS WELL AS THE EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, INVITEES, PARTNERS AND THE ASSIGNS, AND SUCCESSORS IN INTEREST OF ANY OF THEM ("INDEMNITEES") FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), LOSSES, DAMAGES, DEMANDS, FINES AND CAUSES OF ACTION CAUSED BY, ARISING OUT OF, OR RELATED TO THE WORK, OR THE ACTUAL OR ALLEGED ACTS OR OMISSIONS OF CONTRACTOR OR THAT OF ITS SUPPLIERS, SUBCONTRACTORS, AGENTS, SERVANTS OR EMPLOYEES, AS WELL AS ANY JOINT NEGLIGENCE OR FAULT OF THE INDEMNITEES, WHETHER OR NOT SUCH ACTIONS OR OMISSIONS OCCUR JOINTLY OR CONCURRENTLY; PROVIDED, HOWEVER, THAT CONTRACTOR'S OBLIGATIONS HEREUNDER SHALL NOT APPLY TO ANY CLAIM, LIABILITY, EXPENSE, LOSS, DAMAGE, DEMAND, FINE OR CAUSE OF ACTION ESTABLISHED TO BE THE RESULT OF THE SOLE NEGLIGENCE OF AN INDEMNITEE. THE CONTRACTOR'S DEFENSE, HOLD HARMLESS AND INDEMNITY REQUIREMENTS, AS SET FORTH ABOVE, SHALL ALSO EXTEND TO INJURIES SUSTAINED BY CONTRACTOR'S EMPLOYEES AND SHALL NOT BE LIMITED BY ANY APPLICABLE WORKERS' COMPENSATION LAW OR SIMILAR STATUTE, THE APPLICATION OF WHICH ARE WAIVED. TO THE EXTENT THAT STATE AND/OR FEDERAL LAW LIMITS THE TERMS AND CONDITIONS OF THIS CLAUSE, IT SHALL BE DEEMED SO LIMITED TO COMPLY WITH SUCH STATE AND/OR FEDERAL LAW.

TO THE EXTENT THAT THIS CONTRACT RELATES TO ACTIVITIES OF ANY KIND OR CHARACTER ATTRIBUTABLE TO OHIO, THIS LIABILITY AND INDEMNITY CLAUSE IS AMENDED TO ADD THE FOLLOWING PARAGRAPH: "CONTRACTOR EXPRESSLY AND SPECIFICALLY WAIVES ITS STATUTORY AND CONSTITUTIONAL WORKERS' COMPENSATION IMMUNITY UNDER OHIO LAW, INCLUDING AMENDMENTS THERETO."

This Article 13 shall survive the termination and/or cancellation of this Contract.

- 14. USE OF SUNOCO'S PREMISES:** All Work shall be performed in such a manner as to cause a minimum of interference with Sunoco's operations and the operations of other Contractors on the premises. Contractor shall take all necessary and proper precautions to protect the premises and all persons and property thereon from damage or injury.
- 15. LIENS:** Upon completion of the Work and as a condition precedent to final payment, Contractor shall deliver to Sunoco a full release of liens in such form as Sunoco may require. Contractor shall not permit any lien, including a tax lien, or charge to attach to the Work or the premises upon which the Work is being performed. If any such lien does so become attached, Contractor shall promptly

procure its release and hold Sunoco harmless from such losses, cost, damages or expenses incidental thereto including court costs and attorney's fee.

- 16. FORCE MAJEURE:** If, because of force majeure, either party is unable to carry out any of its obligations under this Contract, other than the obligations to pay money due hereunder, and if such party promptly gives to the other party hereto written notice of such force majeure, then the obligations of the party giving such notice shall be suspended to the extent made necessary by such force majeure and during its continuance, provided that the party giving such notice will use its best efforts to remedy such force majeure insofar as possible with all reasonable dispatch. The term "force majeure" as used herein shall mean any cause beyond the reasonable control of the party affected thereby, such as, but not limited to, acts of God, acts of public enemy, insurrections, riots, strikes, lockouts, labor disputes, fires, explosions, floods, breakdowns or damage to plants, equipment or facilities, embargoes, orders or acts of civil or military authority, or other causes of a similar nature. Upon the cessation of the force majeure event, the party that had given original notice shall again promptly give notice to the other party of such cessation.
- 17. NONDISCLOSURE AND OWNERSHIP:** Contractor agrees that all inventions, patents rights and developments or other rights of any nature and all materials, products and techniques which resulted from the services rendered by Contractor hereunder are to be vested in Sunoco as its exclusive property; and all information and records relating thereto, shall belong exclusively to Sunoco. Contractor agrees whether or not then employed by Sunoco to execute and deliver at the request of Sunoco any document that Sunoco may deem necessary to establish and maintain its aforesaid exclusive rights and property. There shall be no publication of any information arising from Contractor's services without the express written permission of Sunoco. All materials, information, data, papers, drawings and other records belonging to Sunoco in Contractor's possession shall be returned to Sunoco upon termination of this Contract or at any earlier time upon its request. Contractor agrees to receive and hold in confidence any information imparted to it or its subcontractors by Sunoco which pertains to Sunoco's business activity in any manner, and which is not the subject of general public knowledge, including without limitation proprietary processes, technical information and know how, management policies, economic policies, financial and other data, customer lists, computer software and the like. Should Sunoco elect to provide Contractor with access to Sunoco's computer systems or network in connection with this contract, Contractor agrees that upon termination or cancellation of this Contract, it shall immediately cease any further use of such system or network and return to Sunoco any information related to such system or network. Further, Contractor agrees to abide by all of Sunoco's policies and procedures applicable to such use and access. Contractor shall include the foregoing provisions in all subcontracts in which it enters so that Sunoco and Contractor shall have the same rights herein set forth with respect to each subcontractor. This clause shall survive termination of this Contract.
- 18. AMENDMENTS:** This Contract may be modified only if such modification is in writing and signed by a duly authorized representative of both parties. All notices under this Contract shall be in writing and addressed to Sunoco or Contractor as the case may be, and directed to the individuals specified on the face of this Contract.
- 19. WAIVERS:** No waiver by either party of any breach of any of the covenants or conditions herein contained shall be construed a waiver of any succeeding breach of the same or of any other covenant or condition.
- 20. EFFECT OF SUNOCO'S APPROVAL:** Any approval of Sunoco shall not relieve Contractor of any duty, responsibility or obligation imposed on it by any provision of this Contract.
- 21. ASSIGNMENTS:** Neither this Contract nor any claim against Sunoco arising directly or indirectly out of or in connection with this Contract shall be assignable by Contractor without Sunoco's consent in writing.
- 22. SEPARABILITY OF PROVISIONS:** The invalidity, illegality and unenforceability of any provision(s) of this Contract shall in no way affect or impair the validity, legality and enforceability of the remaining provisions hereof.
- 23. CAPTIONS:** Captions used in this Contract are not a part of this Contract and are for convenience of reference only and shall not affect the meaning or construction of any of its provisions.
- 24. SET-OFF:** Contractor grants Sunoco the right to set-off and apply any accounts owed by Sunoco to Contractor or Contractor's successors or assigns against any accounts owed by Contractor or Contractor's successors or assigns to Sunoco or any collateral held by Sunoco as security for any indebtedness owed by Contractor to Sunoco.
- 25. INSURANCE:** Contractor shall take out, carry and maintain in insurance company or companies, and in policies of insurance written on an occurrence basis or self-insurance acceptable to Sunoco, the following primary insurance with limits not less than those indicated for the respective items:
- a) Statutory Worker's Compensation and Occupational Disease Insurance, including Employer's Liability Insurance* and, if applicable, coverage under the Longshoremen and Harbor Worker's Compensation Act, the Jones Act or other

Maritime Employer's Liability*, complying with laws of each jurisdiction in which any work is to be performed or elsewhere as may be required. Employer's Liability Insurance* (and Maritime Employer's Liability*, if applicable) shall be provided with a limit not less than \$2,000,000 each occurrence.

- b) Commercial Liability Insurance*, including all Premises and Operations, Contractual Liability, Products-Completed Operations Liability, Fire Legal Liability, Explosion, Collapse and Underground Damage Liability, Broad Form Property Damage Liability, and, if applicable, Watercraft and Aircraft Liability, as well as coverage on all Contractor's mobile equipment (other than motor vehicles licensed for highway use) owned, hired or used in the performance of this Contract with limits not less than \$5,000,000 Bodily Injury, Personal Injury & Property Damage combined each occurrence and aggregate.
- c) Automobile Liability Insurance*, including Contractual Liability, covering all motor vehicles licensed for highway use and employed in the performance of this Contract, with limits not less than \$5,000,000 Bodily Injury, Personal Injury & Property Damage combined each occurrence and aggregate.
- d) Professional Liability Insurance, including Contractual Liability with limits not less than \$2,000,000 Bodily Injury, Personal Injury and Property Damage combined each occurrence and aggregate.

***Must cover Sunoco, its parent, subsidiaries and affiliates and their respective officers, directors and employees as additional insureds. All insurance coverages shall include a waiver of subrogation in favor of Sunoco, its parents, subsidiaries and affiliates and their respective officers, directors and employees.**

Contractor shall provide certificates of insurance acceptable to the Sunoco prior to commencement of performance hereunder. Such certificates shall provide that thirty (30) days' advance written notice shall be given to Sunoco in the event of any material change in, or cancellation of, such insurance. Upon the request of the Sunoco, Contractor shall also provide certificates of insurance to the Sunoco evidencing such insurance covering periods subsequent to the term of this Contract.

The Insurance requirements set forth herein shall not in any way limit the Contractor's liability arising out of this Contract or otherwise, and shall survive termination of this Contract.

- 26. **ENTIRETY OF CONTRACT:** The parties agree that this Contract sets forth their entire Agreement and there are no promises or understandings other than those stated herein.
- 27. **MEDIATION.** The parties agree that any dispute that cannot be resolved amicably shall be first submitted to mediation before a mutually agreed mediator, prior to either party's resorting to legal action. If the parties are unable to agree upon a mediator within thirty (30) days after either notifies the other in writing of its intent to mediate, the mediator shall be appointed by the highest ranking officer of the American Arbitration Association Office located in closest proximity to the offices of the party requesting mediation. Each party will bear its out-of-pocket costs of the mediation; all other costs of the mediation; e.g. mediator fees and related charges, will be shared equally. The mediation will be held at a location selected by the mediator, if the parties are unable to agree upon a site. A request for mediation will immediately suspend the running of any statute of limitations, until the mediation is completed or abandoned by either party, upon giving written notice to the other.
- 28. **PAYMENT.** As a condition to payment of the purchase price or any progress or installment payment thereof, Seller must comply with the invoicing procedures of Sunoco. Sunoco may withhold payment or return invoices to Seller without liability or loss of discount privileges if: (i) invoices do not conform to Sunoco's invoice procedures or contain errors; (ii) Seller fails, within three (3) days of Sunoco's written notice to provide reasonable assurances of its prompt and proper performance; (iii) any portion of the services rendered to date have proved not to be in strict conformity with the requirements of this Contract and Seller has failed to cure the non-conformity; or (iv) there is an on-going breach by Seller of a material term of this Contract.

Net thirty (30) days after receipt of invoice and acceptance of such invoice by Company. Credit terms same or better than payment terms.

[SIGNATURE PAGE FOLLOWS]

This Contract has been executed by their duly authorized representatives on this _____ day of _____, 20 ____.

SELLER

Company Name: _____

Authorized Representative's Name: _____

Title: _____

Signature: _____

SUNOCO RETAIL LLC

Authorized Representative's Name: _____

Title: _____

Signature: _____