

IPC (USA), Inc.
Agreement on the Terms and Conditions for Fuel Sales

Except as may otherwise be agreed to by the parties in a written agreement signed by the Customer and an officer of IPC (USA) Inc., this Agreement on the Terms and Conditions for Fuel Sales, as amended from time to time, (the "Terms"), shall apply to all sales of gasoline, diesel or any other fuels ("**Fuels**") by IPC (USA), Inc., hereinafter "**IPC**" to Customer:

1. Price Notices; Invoices; Bill of Lading.

A. Pricing, Ordering and Invoicing. IPC may from time to time send Customer a price sheet ("**Price Notice**") that shows prices available at that time for various grades of Fuels. IPC sources Fuels from various refiners and other suppliers of Fuel and it is common for prices to fluctuate from day to day and even intra-day. As such, IPC cannot guarantee that prices shown on the Price Sheet will always be available. Customer therefore acknowledges that the prices shown on the Price Notice are not considered firm and are subject to change based upon product availability, supply limitations, transportation logistics and market fluctuations. When Customer places an order ("**Order**") for Fuel with IPC, Customer should inquire whether pricing has changed from the latest Price Notice. In any event, the firm price applicable to each Order shall be shown on the invoice (the "Invoice") generated for each Order and such invoice price shall supersede any price shown on a Price Notice.

B. Bill of Lading. The quantity billed on each Invoice shall be based upon the quantity set forth in the actual bill of lading ("**BOL**") produced by the refinery or other supplier where each Order is sourced and Customer agrees to pay for the BOL quantity as invoiced. The BOL quantity set forth on the invoice shall supersede any metering system controlled by Customer or located at the Customer's station or other delivery site, including but not limited to the Veeder Root system.

2. Payment.

A. Payment Methods; Terms. Payments for Orders are due by Customer in the timeframe indicated in the Invoice. Credit is granted at the sole discretion of IPC, and may be withdrawn or re-evaluated from time to time by IPC at its sole discretion. All prices are quoted in U.S. Dollars. IPC's suppliers typically require any claims on Fuels sold to be submitted within 30 days of delivery. In light of this, any dispute or claim (including but not limited to claims regarding quality, quantity or delivery) by Customer on any Order, Invoice or payment must be presented to IPC in writing within 20 days of the invoice date, or the claim shall be deemed waived and time-barred. When making a claim, Customer shall furnish to IPC all relevant documents and information substantiating the claim and shall afford IPC with prompt and timely opportunity to take samples of the Fuel at issue and inspect the receiving tanks and associated equipment, as well as any metering systems connected to the receiving tanks. If Customer fails to provide such relevant documents and information or fails to provide access on a promptly and timely basis (but in any case within 90 days from the Order Date or Invoice date, whichever is later), Customer's claim shall be deemed waived.

B. Late Charges. Any amount payable to IPC pursuant to an Invoice not received five (5) days after the due date ("**Delinquent Amount**") shall be subject to a monthly fee (the "**Late Fee**") in an amount equal to 1.5% of the Delinquent Amount per month, or 18% of the Delinquent Amount per annum, whichever is higher. Customer agrees that this is not interest on a loan, but rather a Late Fee which Customer agrees is reasonable to defray the expenses incurred by IPC incidental to the administration, processing and collection of the Delinquent Amount.

C. Taxes. All local, state, and federal excise, sales, and use taxes relating to the Fuel sold to Customer, when applicable, shall be borne by Customer. To the extent that any additional applicable taxes, license fees, inspection fees, environmental fees or other charges are imposed by any governmental or regulatory authority or agency on, or measured by, gross receipts from any Fuel sold hereunder, or levied on the production, manufacture, transportation, sale, delivery or levied on volumes sold or delivered, or other handling of Fuel under these Terms, Customer shall reimburse IPC for such additional taxes, fees and charges. Failure of IPC to add any such tax, fee or charge to the invoice shall not relieve Customer from liability therefore. Customer shall reimburse IPC for any interest and/or penalty assessed by any governmental or regulatory authority or agency when the penalty and/or interest is assessed as the result of false, incorrect or delinquent certification(s) made to IPC by Customer.

3. Delivery; Title; Risk of Loss.

A. To the extent that Customer requests that Fuel be delivered at a specified date and/or time, IPC shall use its best efforts to accommodate Customer's requests. However, IPC generally utilizes third party carriers to deliver Fuels and there may be delays due to traffic congestion, product availability and other causes beyond IPC's control and therefore IPC does not guarantee that deliveries will be made at specified times/dates and IPC shall not be responsible for any damage or claim by Customer on account of a late or delayed delivery of any Fuel.

B. Customer warrants and stipulates that any person signing a delivery ticket or BOL on behalf of the Customer is, in fact, an agent so designated and authorized for that purpose by Customer. For any Fuel sold by IPC on a delivered basis (i.e., where the Fuel delivery is arranged by IPC), title and risk of loss are transferred to Customer at the flange connection to the receiving tank(s). If Customer arranges for its own delivery using carriers arranged by Customer ("**Customer's Carrier**"), title and risk of loss are transferred to Customer upon delivery to Customer's Carrier.

C. To the extent that Customer requests a specific delivery date, Customer must be available to receive the Fuels on that requested delivery date. Redelivery charges may apply if any shipment is unable to be delivered on the requested delivery date or original delivery location due to the lack of capacity of Customer's receiving tanks, due to the station being closed or due to lack of access to the receiving tanks or for any other cause beyond IPC's control. If an Order is cancelled by Customer [after the Product has

been loaded on the delivery truck] and if IPC incurs losses due to such cancellation, Customer shall be responsible for cancellation charges equal to IPC's losses.

4. Force Majeure.

Neither IPC nor Buyer shall be liable in damages or otherwise for any failure or delay in performance on any obligations hereunder (except for the obligation to make payment), where such failure or delay is caused an event of force majeure, which shall be deemed as any event, occurrence or circumstance reasonably beyond the control of the party claiming force majeure, including without prejudice to the generality of the foregoing, failure or delay caused by or resulting from acts of god, strikes, labor disputes, fires, floods, wars, riots, destruction or unavailability of Fuels, delays of carriers or suppliers, embargoes, accidents and restrictions imposed by any governmental authority (including but not limited to allocations, priorities, requisitions, quotas and price controls). The party claiming force majeure ("Declaring Party") shall give written notice thereof to the other party as soon as practicable, but in any event within 72 hours of the occurrence thereof. The time of IPC to make or of Customer to receive delivery under any Order shall be extended during any period in which delivery shall be delayed or prevented by reason of force majeure, up to a total of thirty (30) days. If any delivery hereunder shall be so delayed or prevent for more than thirty (30) days, either party may terminate this Order with respect to such delivery upon written notice.

5. Disclaimer; Limitation of Liabilities.

A. DISCLAIMER. ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER WARRANTIES AND REPRESENTATIONS, EXPRESSED OR IMPLIED, ARE HEREBY DISCLAIMED AND EXCLUDED BY THESE TERMS AND CONDITIONS. THERE IS NO WARRANTY WHICH EXTENDS BEYOND THE DESCRIPTION OF THE PRODUCT CONTAINED IN THE APPLICABLE INVOICE. CUSTOMER WAIVES THE BENEFIT OF ANY RULE THAT DISCLAIMER OF WARRANTY SHALL BE CONSTRUED AGAINST IPC.

B. Limitation of Liability. In no event shall IPC be liable for any special, indirect, or consequential damages, including but not limited to lost profits, loss of good will or investment or damage to reputation. Any damage for breach of any Warranty by IPC is strictly limited to the amount paid by Customer to IPC for the Fuels in question. These limitations of liability have been factored into the price of the Fuel sold to Customer and the prices offered to Customer would not have been offered but for the application of these limitations of liability.

6. Indemnification.

Customer shall defend, indemnify and hold IPC, its agents and employees, harmless against all claims, penalties, demands, causes of action, or other loss or liability (including reasonable attorneys' fees and legal expenses) arising out of any administrative or judicial action or any injury or death of persons or damages or loss to property or natural resources (including, but not limited to, those that arise from storage tank leaks or spills, waste disposal, or air emissions) caused by or happening in connection with Customer's handling of its business or station, or performance or failure to perform pursuant to these Terms and any Invoice, including but not limited to, Customer's loading, transportation, unloading, storage, handling, sale or use of Fuels sold pursuant to any Order, whether or not Customer was negligent or otherwise at fault; provided, however, such defense, indemnification, and hold harmless obligations shall not apply to claims for loss, damage, injury or death (a) to the extent Customer proves them to have been caused by IPC's negligence or willful misconduct, or (b) when caused by defects in Fuels sold by IPC hereunder not caused or contributed to by any act or omission to act of Customer or Customer's employees or agents. IPC shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of IPC's selection.

7. Miscellaneous.

A. Every purchase of Fuel, including all Price Notices, Orders and Invoices, shall be governed by and be deemed to include the provisions of these Terms. In the event of any inconsistency between these Terms and a Price Sheet, Order or Invoice, these Terms shall prevail, unless otherwise agreed to by the parties in a written agreement executed by the Customer and an officer of IPC. These Terms represent the entire agreement between the parties concerning the matters addressed in these Terms and all oral discussions/ representations/agreements and prior agreements are merged herein. Notwithstanding the foregoing, these Terms shall not serve to supercede, void or otherwise reduce any obligations of the Customer or Customer's guarantor under any written credit application, promissory note, guaranty, deed of trust, security agreement, branding agreement or other written agreement executed by the parties.

B. The remedies reserved herein shall be cumulative and in addition to any other remedies provided in law or equity.

C. Customer may not assign its rights and obligations under these Terms except with the written consent of IPC.

D. To be binding and effective, any waiver of any rights by IPC must be in a writing executed by an officer of IPC. No oral statement or representation by any sales person or other staff of IPC shall constitute a waiver. No waiver of breach of any provision of these Terms shall constitute a waiver of any other breach of the provision. Any delay or failure by either party to enforce any provision of these Terms shall not constitute a waiver of the provisions or prejudice the right of either party to enforce the provision at any subsequent time.

E. If any provision of these Terms is or becomes void or unenforceable by force or operation of law, the other provisions shall remain valid and enforceable and the unenforceable provision shall be modified to the minimum extent necessary to make such provision valid and enforceable, in keeping with the intent and spirit behind such provision.

F. These Terms may be modified by IPC from time to time in the future, as industry and business practices change. If the Terms are modified by IPC, the modified Terms will be posted by IPC on its website and notice that the Terms have been modified shall be publicized in the Price Notices. To the extent that Customer places any Orders after the effective date of the modified Terms, Customer shall be deemed to have accepted and agreed to be bound by the Terms as modified. It is hereby understood that these Terms may not be modified by any oral statement or representation by any IPC sales person or staff and that to be effective all modifications to the Terms need to be set forth expressly in writing and posted to IPC's website.

8. Governing Law and Dispute Resolution.

A. These Terms shall be governed by and construed pursuant to the laws of the State of California without giving affect to any principles of conflict of laws. Except for (i) collections actions by IPC against Customer or Customer's guarantor arising from Customer's failure to pay for Fuel and related charges, (ii) foreclosure of security interests in real or personal property, (iii) actions by IPC against Customer or Customer's guarantor pursuant to promissory notes, revolving notes, security agreements or deeds of trust, (iv) appointment of a receiver or (v) the exercise of other provisional remedies (any of which may be initiated pursuant to applicable law, the parties agree that any and all disputes, claims or controversies arising out of or relating to these Terms (including but not limited to any pricing, quality, quantity or delivery claims connected with any Price Notice, Order or Invoice) or its enforcement, interpretation or validity thereof ("Claim"), by a reference proceeding in California in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure ("CCP"), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. The referee shall be a retired judge or justice and hearing shall be conducted in Orange County, unless otherwise mutually agreed by the parties. If the parties cannot mutually agree upon a referee within 45 days of the initiation of the suit, the referee shall be selected by the presiding judge of the court (or his or her representative). A request for appointment of a referee may be heard on an ex parte or expedited basis, and IPC and the Customer agree that irreparable harm would result if ex parte relief is not granted. The referee shall be appointed to sit with all the powers provided by law. Pending appointment of the referee, the court has power to issue temporary or provisional remedies. Subject to the referee's power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial and any other hearing in which the court reporter is present. The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision and pursuant to CCP §644 the referee's decision shall be entered by the court as a judgment or an order in the same manner as if the action had been tried by the court. The final judgment or order or from any appealable decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of laws, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision. If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted) or if a reference procedure is not available to the parties for any reason, any dispute between the Company and the Purchaser that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or Justice, in accordance with the California Arbitration Act § 1280 through § 1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding. CUSTOMER AND CUSTOMER'S GUARANTOR RECOGNIZE AND AGREE THAT ALL DISPUTES RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR OWN CHOICE, CUSTOMER AND CUSTOMER'S GUARANTOR EACH KNOWINGLY AND VOLUNTARILY AND FOR THEIR MUTUAL BENEFIT AGREE THAT THIS REFERENCE PROVISION WILL APPLY TO ANY DISPUTE AS PER THE TERMS SET FORTH HEREIN

B. Prior to or while a Claim is before a judicial referee, IPC or the Customer may commence mediation by providing the other party with a written request for mediation, so long as the request is made at least 60 days prior to the trial date. If the parties are unable to mutually agree upon a mediator, the parties will cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Unless otherwise agreed by the parties, the mediator shall be disqualified from serving as a judicial referee or arbitrator in the case.