

General Terms and Conditions

RECITALS

A. Under 40 CFR Part 80, Renewable Fuel Standard (the "Regulation"), Seller has taken ownership of Renewable Identification Numbers ("RINs"), as defined in §80.1425 of the Regulation; and

B. The RINs owned by Seller were originally generated, pursuant to §80.1426 of the Regulation, by an EPA-registered renewable fuel producer and/or importer and RINs were attached or assigned to renewable fuel volumes by such producer and/or importer such that each RIN had a 'K' value of 1, as described in §80.1425; and

C. Seller, as necessary, has separated or terminated the assignment of certain RINs from renewable fuels it purchased pursuant to §80.1429, and changed the 'K' value of such RINs from 1 to 2, and the resulting RINs, along with all other RINs being sold hereunder, are called "Unassigned Gallon-RINs", and have not previously been retired or used for compliance purposes by an "Obligated Party", (as defined in §80.1406 of the Regulation), to meet a "Renewable Volume Obligation", (as defined in §80.1405 of the Regulation); and

C. Seller and Buyer have entered into a contract for the purchase of RINs by Seller from Buyer of which these General Terms and Conditions (the "Terms and Conditions") become part (the "Confirmation").

AGREEMENTS

1. Invoice and Payment. Seller shall send an invoice for the Purchased RINs to Buyer immediately on or after the Effective Date of the Confirmation. If Buyer fails to pay Seller the Purchase Price on or before the Payment Date, Seller shall have the right to immediately terminate the Confirmation and shall have the rights and remedies specified in paragraph 8 below.

2. Taxes. Buyer shall, in addition to the Purchase Price, pay any sales, use, transfer or other taxes, duties, imposts, or other charges imposed by any governmental or regulatory authority or agency (including federal, state, municipal, or local) in connection with the sale of the Purchased RINs to Buyer (excluding any taxes on the income of Seller), if any. Failure of Seller to invoice Buyer for any such tax, fee, or charge shall not relieve Buyer from liability therefore, and Buyer shall indemnify, release, defend, and hold harmless Seller from and against any violations or penalties imposed for failure to pay such taxes.

3. Title. Seller shall transfer to Buyer legal and equitable title to the Purchased RINs free and clear of any liens and encumbrances, and Buyer shall thereafter retain such title, right and interest in and to the Purchased RINs .

4. Documentation. Seller shall provide to Buyer, upon Buyer's request, a draft copy of Seller's Renewable Fuel Standard Report "RFS RIN Transaction Report" ,

as redacted by Seller to protect from disclosure information not essential to this transaction, to ensure that the Parties are similarly reporting the volumes of Purchased RINs to be transferred pursuant to the Confirmation, prior to these reports being submitted by each Party to the EPA in accordance with the Regulation, including § 80.1454.

Buyer shall provide to Seller, upon Seller's request, the applicable portion of Buyer's Renewable Fuel Standard Report "RFS RIN Transaction Report", as redacted by Buyer to protect from disclosure information not essential to this transaction, to ensure that the Parties are similarly reporting the volumes of Purchased RINs to be transferred pursuant to the Confirmation, prior to these reports being submitted by each Party to the EPA in accordance with the Regulation, including §80.1454.

The parties agree that the above-referenced documents to be provided pursuant to this Article constitute and shall be deemed "Confidential Information", and shall be afforded confidential treatment pursuant to Article IX of these Terms and Conditions.

5. Event of Default. "Event of Default" shall mean, with respect to a Party responsible for a default (the "Defaulting Party"):

- (a) the failure by Buyer to make, when due, payment, required under the Confirmation; or
- (b) the failure by Seller to transfer RINs as required under the Confirmation; or
- (c) if any warranty or covenant made by the Defaulting Party in Article VIII of these Conditions shall prove to be false or misleading in any material respect; or
- (d) the Defaulting Party becomes insolvent, or makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its assets, or is adjudicated bankrupt, or files a petition in bankruptcy, or applies to a court for the appointment of a receiver for any of its assets or properties with or without consent, and such receiver is not be discharged within sixty (60) days following appointment.

6. Remedies Generally. If an Event of Default occurs with respect to either Party at any time during the term of the Confirmation, the other Party (the "Notifying Party") may (A) upon two business days' written notice to the Defaulting Party terminate the Confirmation, (B) withhold any payments due in respect to the Confirmation to the extent of its damages subject to the proviso below, and (C) the Defaulting Party will indemnify and hold the Notifying Party harmless in respect of a third party claim against the Notifying Party arising from the Defaulting Party's material breach of warranty or covenant made in Article VIII of the Terms; provided, however, that, in the case of breach of the Confirmation by any Party, the other Party's right to damages shall be limited to the amounts and remedies set forth in paragraphs 7 or 8, as the case may be, and the limitations of liability set forth in paragraph 10 shall also apply.

7. Buyer's Remedies. If Seller fails to transfer RINs to Buyer in accordance with the Confirmation, Seller shall reimburse Buyer for the cost of the RINS purchased by Buyer to replace the non-transferred RINs (the "Replacement Purchase Price") provided that the Replacement Purchase Price was negotiated in good faith as part of an arms-length transaction and provided that Buyer has paid Seller the Purchase Price for the non-transferred RINs. If Buyer has not paid the Purchase Price as of the date of Seller's default, Seller shall pay Buyer the difference between the Replacement Purchase Price and the Purchase Price for the non- transferred RINs but only if the Replacement Purchase Price is higher.

8. Seller's Remedies. If Buyer fails to pay the Purchase Price in full, at the time and in the manner provided herein, and Seller elects to terminate the Confirmation, then

- (a) If Buyer has paid a portion of the Purchase Price, Buyer shall retain the right to an amount of the RINs proportionate to the amount paid, namely an amount equal to (i) the amount of the Purchase Price previously paid to and received by Seller divided by (ii) the Purchase Price per RIN (the "Unit Price") and
- (b) Buyer shall pay Seller termination damages equal to: (A) the product of (i) the total number RINs contracted for purchase by Buyer (less any RINs included under ((a) above), and (ii) the Unit Price.

9. Indemnity. Subject to limitations imposed under paragraphs 7, 8 and 10, Seller shall indemnify and hold Buyer harmless against any losses, damages (to person and/or property), liabilities, fines, penalties, claims, costs, and expenses (including without limitation attorneys and court fees) of any kind whatsoever to the extent incurred by Buyer or its affiliates, or their respective officers, directors, or employees resulting from Seller's breach and/or its negligence or willful misconduct. This indemnity shall not apply to the extent that Buyer does not use, transfer, retire or expire each of the Purchased RINs in accordance with the Regulation.

10. Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF PRODUCTION, LOSS OF REVENUE, OR BUSINESS INTERRUPTION, OR FOR EXEMPLARY OR PUNITIVE DAMAGES, IN ANY AMOUNT IN CONNECTION WITH THE CONFIRMATION, REGARDLESS OF THE FORM OF ACTION ALLEGED, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, UNLESS THE SAME ARISES FROM GROSS NEGLIGENCE, INTENTIONAL MISCONDUCT, OR FRAUD OF SUCH PARTY.

ARTICLE VIII- WARRANTIES

11. Buyer's Warranties. Buyer warrants that it will use, transfer, retire or expire the Purchased RINs in compliance with the Regulation and all other applicable laws and regulations.

12. Seller's Warranties. Seller warrants that to the best of Seller's knowledge, as of the Effective Date:

- (a) The RINs being sold and transferred hereunder were originally properly generated by EPA-registered renewable fuel production or importation facilities and purchased by and transferred to Seller in accordance with the requirements of the Regulation, and
- (b) The RINs were properly separated from volumes of renewable fuel in accordance with the Regulation, such RINs are Unassigned Gallon-RINs, and Seller has the right to transfer such RINs under the Regulation; and
- (c) Seller has good and marketable title to the Purchased RINs transferred hereunder, and such Purchased RINs are free and clear of any claims, liens, charges, encumbrances, pledges or security interests against Seller; and
- (d) The Purchased RINs sold and transferred hereunder have not previously been retired or used by an Obligated Party to satisfy its Renewable Volume Obligation.

EXCEPT FOR THE FOREGOING EXPRESS WARRANTIES, SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE PURCHASED RINS OR THE CONFIRMATION, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF SUCH PURPOSE IS KNOWN TO SELLER. IN ADDITION, SELLER IS NOT RESPONSIBLE FOR THE FUTURE MISUSE OF THE PURCHASED RINS IN CONJUNCTION WITH COMPLIANCE WITH ANY GOVERNMENT REGULATIONS.

13. Confidentiality. Each party agrees to maintain the Confidential Information of the other party (as defined in paragraph 4) in the strictest confidence, and shall not, without the written consent of the other party or as required by law, disclose any of the Confidential Information. Notwithstanding the foregoing, either party may disclose the Confidential Information to its employees and agents that: (a) need to know the Confidential Information, and (b) have been instructed and agreed not to disclose the Confidential Information pursuant to the terms of the Confirmation. Buyer shall be responsible for any breach of this paragraph of the Confirmation by any of its employees and agents, and shall use its commercially reasonable efforts to restrain such persons from the unauthorized use or disclosure of the Confidential Information.

If a party, its employees, or its agents are required by a legal proceeding discovery request, Freedom of Information Act (or state equivalent) request, investigative demand, subpoena, court or government order to disclose Confidential Information (collectively, a "Discovery Request"), such party agrees that it will: (a) immediately provide the other party notice of and a copy of any Discovery Request, (b) not produce any documents pursuant to the Discovery Request until it contacts the other party and determines whether such other party is going to object to the

Discovery Request, file a motion for protective order, file a motion to quash the Discovery Request, or take other legal action to prevent disclosure of the Confidential Information prior to the production deadline stated in the Discovery Request (collectively, an “Objection”), and (c) if either party timely makes or files an Objection, each party agrees that it will not produce any documents until it receives an order from the relevant court or administrative body, or written consent from the other party. Further, the parties agree to cooperate with each other, if requested, in filing or obtaining an Objection to ensure confidential treatment of the Confidential Information. Each party shall reply promptly to all communications from the other party regarding a Discovery Request such that either party’s interest shall not be prejudiced in any proceedings related to the Discovery Request.

14. Miscellaneous.

- (a) Both Parties agree to report this transaction to the EPA in accordance with the requirements set forth in the Regulation.
- (b) The Confirmation is binding upon and inures to the benefit of the successors and assigns of the Parties but shall not be assignable by either Party without prior written consent of the other.
- (c) The Confirmation shall be governed by and construed in accordance with the laws of the State of Minnesota, without reference to its conflicts of law principles and laws.
- (d) All notices, invoices, and other documents required or permitted pursuant to the Confirmation, must be in writing, must be addressed and sent to the applicable Party.
- (e) The Confirmation, including these Terms which form part thereof, contains the entire agreement between the Parties regarding the subject matter hereof, and there are no representations, stipulations, warranties, agreements or understandings with respect to such subject matter that are not fully expressed herein. No amendment to or modification or waiver of all or any part of the Confirmation shall be of any force or effect unless in writing and signed by Seller and Buyer. If any of the provisions, or portions thereof, of the Confirmation are found to be illegal or unenforceable, they are deemed to be omitted, but only to the extent of such unenforceability, and the remaining provisions of the Confirmation shall remain in full force and effect and may be enforced to protect and reflect the original intent of the parties.