

E-Fuel Corporation

Terms and Conditions of Sale

1. OFFER TERMS

E-Fuel Corporation ("Seller") hereby offers to sell and deliver its products to you ("Buyer") in accordance with the terms and conditions hereof. TERMS AND CONDITIONS OF ANY PREVIOUS OFFER OF BUYER ARE HEREBY REJECTED. THIS OFFER IS EXPRESSLY LIMITED TO AND MADE CONDITIONAL UPON THE TERMS AND CONDITIONS CONTAINED HEREIN. ANY OF BUYER'S TERMS AND CONDITIONS WHICH ARE IN ADDITION TO OR DIFFERENT FROM THOSE CONTAINED HEREIN AND WHICH ARE NOT SEPARATELY AGREED TO IN WRITING BY SELLER ARE HEREBY REJECTED AND SHALL BE OF NO EFFECT. IF THESE TERMS ARE NOT ACCEPTABLE, BUYER MUST IMMEDIATELY NOTIFY SELLER. WHEN PURCHASING ON SELLER'S WEB SITE, BUYER WILL BE PRESENTED THESE TERMS AND CONDITIONS OF SALE IN THEIR ENTIRETY. A METHOD TO ACCEPT/REJECT WILL BE PROVIDED TO INDICATE ACCEPTANCE OR REJECTION OF THESE TERMS. BY INDICATING ACCEPTANCE BUYER EXPRESSLY AGREES TO ALL TERMS AND CONDITIONS PROVIDED HEREIN. ANY REJECTION WILL TERMINATE THE ORDER PROCESS. FURTHERMORE, BUYER'S PURCHASE AND ACCEPTANCE OF PRODUCTS FROM SELLER CONSTITUTES BUYER'S ASSENT TO AND ACCEPTANCE OF ALL TERMS AND CONDITIONS CONTAINED HEREIN.

These Terms and Conditions and any order acknowledgment or agreement signed by Seller into which this instrument is incorporated by reference, if any, constitute a binding contract between Buyer and Seller and are collectively referred to herein as the "Agreement". Buyer accepts these Terms and Conditions by making a purchase from or placing an order with Seller or shopping on Seller's Website (the "Site") or otherwise requesting E-Fuel branded products (the "Products"). These Terms and Conditions are subject to change without prior notice, except that the Terms and Conditions posted on the Site or those published at the time Customer places an order will govern the order in question, unless otherwise agreed in writing by Seller and Buyer.

Buyer consents to receiving electronic records, which may be provided via a Web browser or e-mail application connected to the Internet; individual consumers may withdraw consent to receiving electronic records or have the record provided in non-electronic form by contacting Seller. Electronic signatures (or copies of signatures sent via electronic means) are the equivalent of written and signed documents.

Buyer may issue a purchase order for administrative purposes only. Additional or different terms and conditions contained in any such purchase order will be null and void.

2. ENTIRE AGREEMENT

This Agreement contains the entire and only agreement between the parties relating to the subject matter hereof. Any representation, affirmation of fact, and course of prior dealings, promises or conditions in connection therewith or usage of trade not expressly incorporated in this Agreement shall not be binding on Seller. No waiver, consent, modification or change of terms herein shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given. Failure of Seller to object to provisions contained in any order or other document provided by Buyer shall not be construed as a waiver of the terms and conditions of this Agreement nor an acceptance of any provisions of any such order or other document. The rights and obligations contained herein shall inure to and be binding upon the parties, their legal representatives, successors and permitted assigns. **Buyer understands before operating MicroFueler Buyer must comply with all applicable country, federal, state and local laws. US citizens are required to obtain an Alcohol Fuel Producer permit before producing ethanol which can be found on the Internet at <http://www.ttb.gov/forms/f511074.pdf>.** See Seller's web site for further information.

3. GLOBAL NETWORK

a. Definitions. (1) The E-Fuel Global Network (EGN) shall constitute the proprietary electronic communications network established by Seller to maintain regular communications with the applicable Products world-wide through use of an Internet or data cell connection. (2) The E-Fuel Global Commerce Network (EGCN) shall constitute that portion of the EGN which administers billing and payment for commerce transactions on the network between Buyer, Seller and applicable third parties.

b. General. Buyer agrees the applicable Products will require regular internet or data cell connection and active enrollment in the E-Fuel Global Network for applicable Product to function. Buyer agrees to the terms and conditions of the then current E-Fuel Global Network Subscriber Agreement, a copy of which may be found at Seller's web site.

4. CARBON REDUCTION CREDIT ASSIGNMENT

a. General. Buyer agrees to relinquish and assign E-Fuel Corporation ownership of all carbon reduction credits, either by government or private industry, resulting from the use of ethanol produced by the Products. This includes 3rd party or later parties that might establish claim for carbon reduction credit.

5. WARRANTY

a. General. Seller warrants to Buyer that the Products it sells will be free from defects in materials and workmanship for the periods set forth in the applicable Warranty Statement (Statement), a copy of which may be obtained from any E-Fuel sales office or our

website at www.microfueler.com. If any such Product proves defective during the Warranty period, Seller will repair or replace the defective Product as specified in the applicable Statement. The foregoing warranties shall not apply to any products which Seller determines have, by Buyer or otherwise, been subjected to operating and/or environmental conditions in excess of the maximum value established therefor in the applicable specifications, or any products that have been the subject of mishandling, misuse, misapplication, neglect, improper testing, repair, alteration or damage including but not limited to the use of feedstock for ethanol production which may cause damage to the MicroFueler. Seller is not responsible for damage caused to the MicroFueler by any dry or liquid feedstock including but not limited to sugars or discarded alcohol that Buyer uses to produce ethanol in the MicroFueler; especially contaminated materials that could cause damage to E-Fuel equipment. Seller does not warrant MicroFueler against 3rd party property damage that could result in Buyer's or 3rd party use of ethanol in any vehicle or property. Buyer assumes all liability in the event damage occurs from use of E-Fuel products or E-Fuel ethanol.

b. Limitation. THE PROVISIONS OF THE FOREGOING WARRANTIES ARE IN LIEU OF ANY OTHER WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES. Seller's liability arising out of the production, sale or supply of products or their use or disposition, whether based upon warranty, contract, tort or otherwise, shall not exceed the actual purchase price paid by Buyer for Seller's products. Seller's liability for any claim of any kind shall in no case exceed the obligation or liability specified in this Warranty. Buyer is solely responsible for complying with all applicable governmental regulations as they relate to the Products. Buyer shall indemnify and hold harmless Seller from any actions which arise out of omissions by Buyer.

c. Use and Care. Buyer is solely responsible for the proper operation, maintenance, access and appropriate use of the Products as set forth in Seller's published documentation. Buyer understands in order to safely use ethanol produced by the MicroFueler as a fuel certain minimum requirements must be met. Buyer is solely responsible for determining suitability of ethanol for use as a fuel in any vehicle or other fuel consuming device and where necessary make required modifications in accordance with the respective device manufacturers specifications before using ethanol as a fuel in the intended device. Seller makes no representation with respect to the appropriateness of ethanol for use as a fuel in any device. Buyer is advised to consult with the manufacturer of the respective device to determine suitability for use with ethanol. Specifically, E-Fuel rejects liability for any claims arising out of use of E-Fuel ethanol, gasoline ethanol blends and 3rd party vehicle ethanol converters in any vehicle or other fuel powered device.

d. Seller is not responsible for Buyer's cost of feedstock or ultimate cost to produce ethanol from MicroFueler product, including any implied statements made by Seller's employees, agents or its affiliates.

e. Technical Assistance. Seller's Warranty as hereinabove set forth shall not be enlarged, diminished or affected by, and no obligation or liability shall arise or grow out of, Seller's rendering of technical advice, facilities or service in connection with Buyer's order of the products furnished hereunder.

f. Warranty Procedures. Buyer shall notify Seller of any products which it believes to be defective during the applicable warranty period and which are covered by the Warranty set forth above. Buyer shall not return any products for any reason without the prior authorization of Seller and issuance of a Return Material Authorization ("RMA") number. Unless otherwise provided for in the applicable Product Warranty Statement, after issuance of a RMA number such products shall be promptly returned by Buyer (and in no event later than thirty (30) days after the Warranty expiration date), transportation and insurance prepaid, to the Seller's designated facility for examination and testing. Seller shall either repair or replace any such products found to be so defective and promptly return such products to Buyer, transportation and insurance prepaid. Should Seller's examination and testing not disclose any defect covered by the foregoing Warranty, Seller shall so advise Buyer and dispose of or return the products in accordance with Buyer's instructions and at Buyer's sole expense, and Buyer shall reimburse Seller for testing expenses incurred at Seller's then current repair rates.

g. Repair Warranty. Seller warrants its repair work and/or replacement parts for a period of ninety (90) days from receipt by Buyer of the repaired or replaced products or for the remainder of the warranty period for the initial delivery of such order as set forth in paragraph a above, whichever is greater.

6. INDEMNITIES

a. By Seller. Except as provided below, Seller shall defend Buyer from and against any claim that products purchased hereunder infringe a valid United States patent or copyright or infringe a trade secret of a third party and pay any damages finally awarded by a court of competent jurisdiction, provided that (i) Buyer shall have promptly provided Seller written notice thereof and reasonable cooperation, information, and assistance in connection therewith, and (ii) Seller shall have sole control and authority with respect to the defense, settlement, or compromise thereof. Should any products delivered hereunder become or, in Seller's opinion, be likely to become the subject of such a claim, Seller may, at its option, either (x) procure for Buyer the right to continue purchasing and using such products, or (y) replace or modify such products so that they become non-infringing, or (z) request that Buyer return such products and, upon receipt, reimburse Buyer the full purchase price paid for such products as full and complete satisfaction for any claims Buyer may have against Seller arising from such infringement. In such event, Seller may withhold further shipments of infringing or potentially infringing Seller products.

Seller shall have no liability or obligation to Buyer hereunder with respect to any patent, copyright or trade secret infringement or claim thereof based upon (i) compliance with designs, plans or specifications of Buyer, (ii) use of the products by Buyer or any agents or customers of Buyer in combination with, or the incorporation or imbedding of the products into, devices or products not purchased hereunder where Seller's product alone would not be infringing, (iii) use of the products by Buyer in an application or environment for which such products were not designed or contemplated, (iv) modifications of the products by Buyer or any agents or customers of Buyer, or (v) any claims of infringement of a patent, copyright or trade secret in which Buyer or any affiliate or customer of Buyer has an interest or license. Seller's liability hereunder shall not exceed the purchase price paid by Buyer for

products found to be infringing. The foregoing states the entire liability of Seller with respect to infringement of patents, copyrights and trade secrets by Seller's products or any part thereof or by their operation.

b. By Buyer. Buyer shall defend and indemnify Seller from and against any damages, liabilities, claims, proceedings, suits, costs and expenses (including reasonable attorneys' fees and court costs) incurred by Seller as a result of or arising from Buyer's activities including, without limitation, product liability, personal property damage, intellectual property infringement, customer warranty and service claims, provided that (i) Seller shall have promptly provided Buyer written notice thereof and reasonable cooperation, information and assistance in connection therewith, and (ii) Buyer shall have sole control and authority with respect to the defense, settlement or compromise thereof.

7. NO LICENSE

The sale of products, or parts thereof, by Seller does not convey any license, by implication, estoppel or otherwise, to use or practice any patent claims or other intellectual property of Seller covering the products, parts or other devices or elements.

8. FORCE MAJEURE

In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any act of nature, fire, casualty, flood, war, riot, strike, lock out, failure of public utilities, injunction or any act, exercise, assertion or requirements of governmental authority, epidemic, destruction of production facilities, unavailability of materials, labor, equipment, transportation or energy sufficient to meet production and delivery needs, or any other cause beyond the reasonable control of the party invoking this provision, and if such party shall have used reasonable efforts to avoid such occurrence and minimize its duration and has given prompt written notice to the other party, then the affected party's performance shall be excused and the time for performance shall be extended for the period of delay or inability to perform due to such occurrence.

9. DELIVERY

All scheduled or quoted delivery dates agreed to by Seller are approximate and are based upon prompt receipt of all necessary information from the Buyer.

a. Domestic Deliveries. Unless otherwise agreed in writing by Seller, domestic deliveries of products hereunder shall be made FOB Seller's facility with transportation expenses and insurance paid by the Buyer. Risk of loss or damage to products in transit shall fall upon the Buyer, whose responsibility it shall be to file claims with the carrier and/or the insurance company. Title shall pass at the point of origin.

b. International Deliveries. Unless otherwise agreed in writing by Seller, delivery of products hereunder to foreign destinations shall be made Ex-Works Seller's facility (Incoterms 2000). Risk of loss or damage to products in transit shall fall upon the Buyer, whose responsibility it shall be to file claims with the carrier and/or the insurance company. Title shall pass at the point of origin.

c. Acceptance. Buyer shall examine all products promptly upon receipt. No later than ten (10) days after delivery, Buyer shall notify Seller of any shortage or nonconformance, and if rejection is intended, all grounds shall be specified. Failure to give Seller such timely notice shall be deemed an unqualified acceptance by Buyer of the delivered products.

10. PAYMENTS

Orders are not binding upon Seller until accepted by Seller. Customer agrees to pay the total purchase price for the Products plus shipping (to the extent shipping is not prepaid by Customer), including shipping charges that are billed to Seller as a result of using Customer's carrier account number. Terms of payment are within Seller's sole discretion. Invoices are due and payable within the time period specified on the invoice, measured from the date of invoice, subject to continuing credit approval by Seller. Seller may invoice Customer separately for partial shipments. Customer agrees to pay interest on all past-due sums at the lower of one and one-half percent (1.5%) per month or the highest rate allowed by law. In the event of a payment default, Customer will be responsible for all of Seller's costs of collection, including, but not limited to, court costs, filing fees and attorneys' fees. In addition, if payments are not received as described above, Seller reserves the right to suspend Services until payment is received. Orders for delivery within the United States may be placed by Buyer on Seller's website. In the case of web orders, Seller shall require an acceptable form of payment at the time the order is placed. Payment shall be collected at the time the order is placed to secure delivery status in the product allocation queue. Web orders shall be subject to the cancellation provisions provided herein.

11. PURCHASE PRICE, TAXES and REBATES

Unless otherwise stated by Seller in a written acknowledgment issued to Buyer, prices, terms of payment and pricing policies, including handling charges, will be those set forth in Seller's published price lists and pricing policies in effect on the date of delivery to domestic Buyer and in effect on the date of shipment to international Buyer. Payment of the purchase price and all other charges shall be tendered in legal currency of the United States of America unless otherwise agreed to in writing by Seller. The amount of any present or future sales, value added, use, excise or other tax applicable to the sale, provision or use of the products sold hereunder shall be paid by the Buyer, or in lieu thereof the Buyer shall provide Seller with a tax-exemption certificate acceptable to any applicable taxing authorities.

Customer will pay for, and will indemnify and hold Seller harmless from, any applicable sales, use, transaction, excise or similar taxes and any federal, state or local fees or charges (including, but not limited to, environmental or similar fees), imposed on, in respect of or otherwise associated with the Products. Customer must claim any exemption from such taxes, fees or charges at the time of purchase and provide Seller with the necessary supporting documentation.

Seller's prices are exclusive of any rebate offers or tax incentives and Seller makes no representation as to whether Buyer will qualify for any such rebates or tax incentives. Buyer is solely responsible for application for any rebates and/or tax incentives. Failure to receive and/or qualify for any rebate or tax incentive shall have no effect on Buyer's obligations to Seller.

12. CANCEL OR RESCHEDULE ORDERS

Buyer may cancel or reschedule its order only upon written notice and upon payment to Seller of charges in accordance with the following schedule: a) greater than ninety (90) days prior to shipment date, a \$100.00 processing fee; b) between ninety (90) and sixty (60) days prior to the shipment date, 10% of the purchase price to cancel, 5% to reschedule; c) between sixty (60) and thirty (30) days prior to scheduled shipment date 25% of the purchase price to cancel, 10% to reschedule; and d) less than thirty (30) days prior to the shipment date, 50% of the purchase price to cancel, 25% to reschedule. A refund due to Buyer, if any, as a result of cancellation shall be credited back to or in the form of the original instrument of payment. The foregoing cancellation provisions apply to non-custom products; Buyer may not cancel, delay or otherwise modify orders for custom products without Seller's prior written consent. No cancellation by Buyer for Seller's default shall be effective unless Seller shall have failed to correct such alleged default within thirty (30) days after receipt by Seller of a written notice from Buyer specifying such default.

13. GOVERNMENT CONTRACT CLAUSES

In any contract entered into with the federal government, or in any contract entered into with any other party which is a subcontractor at any tier of a contract entered into with the federal government: (a) only those clauses of the federal acquisition regulations (FAR) which the regulations themselves mandate for a party in Seller's position, given all relevant limitations including Seller's status as a customer or a subcontractor and the size and type of contract, apply and (b) Seller retains proprietary rights in all technical data, designs, processes and software provided under such contract. Only limited rights or restricted rights are provided to the federal government under the narrowest provision of those rights that the regulations allow, and no rights (including rights of audit of Seller's cost or pricing data) are provided to any other party, including the prime contractor or any higher tier subcontractor.

14. EXPORT CONTROL REGULATIONS

This Agreement, notwithstanding any provision to the contrary, shall be construed and implemented in compliance with the Export Administration Act of 1979, of the United States of America, as amended, which restricts exports of certain goods and technology into certain countries. Buyer agrees, and shall cause each of its customers to agree, that it will not knowingly either directly or indirectly export or re-export the products into those countries listed from time to time in supplements to Part 770 to Title 15 of the Code of Federal Regulations unless Buyer and/or such customers first obtain permission to do so from the United States Bureau of Export Administration or other division as applicable. Buyer agrees and shall cause each of its customers to agree, that it will commit no acts which directly or indirectly violate any United States export control law, regulation, treaty or other international agreement to which the United States adheres or complies or any applicable export, import or other laws of any other jurisdiction and agrees to indemnify and to hold Seller harmless from any and all liabilities or costs incurred by Seller or its affiliates for any reason arising from or connected with any such violation, incurred intentionally or unintentionally.

15. ASSIGNMENT

Any assignment of this Agreement or of any rights or obligations hereunder by the Buyer without the prior written consent of the Seller shall be null and void.

16. APPLICABLE LAW AND VENUE

The construction, interpretation and performance of this Agreement and all transactions, disputes or claims hereunder or related hereto shall be governed in all respects by the laws of the State of California USA without reference to conflict of laws principles. The parties agree that the Uniform Commercial Code provisions of California law, not the United Nation's Convention on Contracts for the International Sale of Goods or any other international convention or treaty, shall govern sales of Seller's products to Buyer. Venue for any controversy, dispute, claim or proceeding arising out of or with respect to this Agreement shall be in a court of competent jurisdiction in San Jose, Santa Clara County, California USA.

17. PROPRIETARY INFORMATION

No proprietary information disclosed by Seller to Buyer in connection herewith shall be disclosed to any person or entity other than Buyer's employees and contractors directly involved with the Buyer's use of such information who agree to protect the confidentiality of such information, and such information shall otherwise be protected by the Buyer from disclosure to others with the same degree of care accorded to its own proprietary information. Information will not be subject to this provision if it is or becomes a matter of public knowledge without the fault of the Buyer, if it was a matter of written record in the Buyer's files prior to disclosure to it by the Seller, or if it was or is received by the Buyer from a third person under circumstances permitting its unrestricted disclosure by the Seller. Upon termination of this Agreement, Buyer shall promptly deliver to Seller all proprietary information in the possession or control of and all copies thereof.

18. LIMITATIONS ON ACTIONS

The parties expressly agree that any action arising out of this Agreement must be commenced within one (1) year after accrual of the cause of action therefor.

19. AMENDMENTS

No modification of or amendment to these Terms shall be effective unless made in writing and signed by both parties.

20. WAIVER

Any waiver of any terms must be in writing and a waiver of one event shall not waive a subsequent event.