

PURCHASE TERMS AND CONDITIONS

These Purchase Terms and Conditions (“Standard Terms”) are between Custom Fuel Services LLC (“CFS”) and the customer identified on CFS’ midstream fuel service ticket (“Customer”) and govern each of Customer’s ordering and purchases of marine fuel from CFS—unless such orders/purchases are explicitly covered under a separate written agreement. These Standard Terms are effective as of the date first posted on CFS’ website and are subject to future update in CFS’ sole discretion without prior notice. For purposes of these Standard Terms, “Delivery” means the transfer of the fuel from CFS to or on behalf of Customer. Accordingly, the parties hereby agree as follows:

1. **Price.** The price(s) quoted for delivery of fuel to Customer (the “Price Quote”) is/are firm if delivery of the fuel is made within five days of the date and time agreed in the original order placed between Customer and CFS; if delivery will not take place within five days of the date and time agreed in the original order, CFS may, at its sole discretion, cancel the original Price Quote and issue a new quote. The price(s) include delivery F.O.B. Ex Tank from the specified CFS equipment, and include taxes and any other charges relating to the sale of oil bunkers. The price(s) exclude any applicable duties and sales tax, which, if incurred, are for Customer’s account. If there are increases in taxes and/or any other charges relating to the sale of oil bunkers, the prices quoted will be increased accordingly.
2. **Notice; Cancellation Fee.** Customer shall provide notice to CFS at least 72 hours in advance of the Delivery, which includes the fuel type and quantity requested. Customer shall update its notice to CFS no less than 48 hours prior to the Delivery, confirming requested fuel type, amount, and delivery time. Unless otherwise agreed in writing, if Customer fails to provide these required 72 hour and 48 hour notices to CFS, CFS will have no obligation to meet the requested fuel quantity or delivery time and location. If Customer provides the required 72 hour and 48 hour notices but then subsequently cancels the order, Customer shall pay CFS a \$500.00 cancellation fee—which amount is hereby deemed to be a reasonable estimate of CFS’s actual damages in the event that an order is cancelled on short notice by Customer. Any notice to CFS required under these Standard Terms is effective if given in writing and sent by either registered or certified mail, postage prepaid, or sent via email addressed to the address stated below:

Custom Fuel Services LLC
Attn: Kala Shihady
1000 South Third Street
Paducah, KY 42003
Kala.Shihady@customfuel.com

Any notice sent via e-mail will be considered effective upon the recipient’s receipt of the e-mail. For purposes of these Standard Terms, “receipt” of an e-mail means opening, reading, forwarding, replying, deleting, ignoring (whether intentional or unintentional), or sending a read receipt in response to the e-mail. Any other form of notice is effective upon receipt or by refusal of the recipient at the applicable address for notice provided herein. Demands, notices, and other communications may also be transmitted by facsimile if a hard copy of such transmittal is deposited with a reputable commercial courier or express service for overnight delivery at the applicable address for notices within one business day following such transmittal. Any demand, notice, or other communication so transmitted is duly given upon receipt by the sender of an electronic answer-back.

3. **Quantity.** CFS’ measurements will be deemed conclusive as to the quantity of fuel delivered to Customer. Customer, however, may be represented at the measuring. If Customer believes CFS has short-delivered, Customer shall immediately notify CFS’ representative upon Delivery, document the alleged shortage on CFS’ midstream fuel service ticket, and the shortage must be confirmed in writing by CFS within 72 hours of Delivery; otherwise, CFS will not be liable for claims pertaining to Delivery shortage. All invoice quantities are based on meter readings, as noted on CFS’ midstream fuel service ticket.
4. **Quality.**
 - a. **Blue Water Fuel Sales.** For any fuel sales to ocean-going (i.e. blue water) vessels, CFS shall provide Ultra Low Sulfur Diesel (15 ppm max. sulfur content) that complies with the Marpol Annex VI and ISO

8217-2010 1000 ppm max. sulfur content requirement. When a fuel sample is required under Marpol Annex VI, then such sample will be taken by CFS at the CFS barge flange.

- b. **Inland River Fuel Sales.** The fuel sold to inland river boats may contain biodiesel at concentrations of up to 5% and/or may be LM500 (500ppm max. sulfur content). Customer agrees that LM500 fuel and/or biodiesel blends may not (a) meet Customer's engine manufacturer(s)' warranty requirements; (b) and/or be approved for or compatible with certain equipment or parts used in bulk storage or handling. Customer shall consult its owner's manuals and/or with its equipment manufacturer(s) to determine the suitability of such fuel(s) for all of Customer's use(s). Subject to the foregoing, CFS shall provide fuel that meets the product specifications stated in any written agreement between CFS and Customer (or the pre-transfer conference document). CFS will not be liable for damages caused by or related to its Delivery of on-spec fuels containing biodiesel or LM500 to Customer. Customer shall release and indemnify CFS for any such claim.
 - c. **Terms applicable to 4(a) above.** Customer shall submit to Seller any fuel-quality complaints within 30 days of delivery of the allegedly off-spec fuel or Customer's claim will be deemed to be waived.
 - d. **Terms applicable to 4(b) above.** Customer shall submit to Seller any fuel-quality complaints within 15 days of delivery of the allegedly off-spec fuel or Customer's claim will be deemed to be waived.
5. **AS-IS. CFS MAKES NO GUARANTEES, CONDITIONS, REPRESENTATIONS, OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE SATISFACTORY QUALITY, MERCHANTABILITY, OR SUITABILITY OF THE MARINE FUEL FOR ANY PARTICULAR PURPOSE, OTHER THAN AS EXPRESSLY SET FORTH IN ANY APPLICABLE TERM CONTRACT.**
6. **Invoicing; Payment; Liens.** Unless different terms have been agreed-upon in writing, CFS shall invoice Customer for the marine fuel delivered to Customer, and Customer shall pay CFS the invoiced charges within 20 days of its receipt of the invoice. Payment shall be made to CFS by ACH wire transfer or by check at the below address. CFS' invoice will be based on CFS' measurements as to the quantity of fuel delivered. CFS will make a good faith effort to include Customer's purchase order number, if applicable, on its invoice; however, regardless of whether CFS includes such purchase order number, Customer shall pay for the fuel delivered to it within 20 days of its receipt of the invoice. Customer is liable for and shall indemnify CFS for any quantity of fuel ordered by Customer and rejected in part or in full by Customer's representative. Wire instructions are available upon request.

**Ingram Barge Company LLC
P.O. Box 198934
Atlanta, GA 30384-8934**

Notwithstanding the above, Customer may be granted credit by CFS's Credit Manager, in which case the monies owed must be paid by Customer within the number of days specified by CFS's Credit Manager. CFS's Credit Manager has complete discretion as to whether credit is extended to Customer, the amount of credit granted, the payment due date, and the form of payment. Customer shall comply with all reasonable requests for financial information by CFS's Credit Manager. CFS's Credit Manager may do any of the following at its sole discretion and at any time: change or cancel the extension and amount of credit; change the payment due date, or, change the form of the payment.

Deliveries of the fuel by CFS are made pursuant to the credit of the Customer and also on the credit of the vessel that will be using the fuel. It is agreed that CFS will have and may assert a lien against such vessel for the amount of the purchase price and cost of Delivery of such fuel to such vessel, and such lien cannot be waived or amended unless by express written consent of the president of CFS. Unless CFS is notified at least 48 hours prior to the Delivery of the fuel, Customer is presumed either (i) to be a person who has authority to procure necessities for the vessel as provided in 46 U.S.C. § 31341 *et. seq.* or (ii) to have been directed by the vessel, or any party with legal authority to bind the vessel, to hire CFS to Deliver the fuel. Any lien that Customer has or will have against the vessel that arises from Delivery of fuel by CFS is hereby assigned to CFS or will be assigned to CFS by Customer. Notwithstanding the foregoing, to the extent that any representative of the vessel attempts

to employ a no lien stamp or takes any other action in an attempt to prevent the creation of a maritime lien at the time of fuel transfer, CFS may immediately suspend the fueling and require that Customer pre-pay before continuing fueling. If Customer refuses to pre-pay for such fueling, CFS may terminate the agreement with Customer without penalty; any delay-related costs or damages incurred by any party resulting from CFS's suspension or termination (or both) of the fuel transfer will be for Customer's sole account.

7. **Force Majeure.** Neither party will be deemed to be in breach of the Standard Terms for failure to perform, excluding failure to make payments and to indemnify as required by these Standard Terms, if such failure arises from a cause not reasonably within the control of such party.
8. **Safety.** CFS has the right, but not the obligation, to suspend or terminate fuel transfer if CFS determines, in its sole discretion, that an unsafe condition exists, including but not limited to a condition of the receiving vessel, discharging vessel, a third party vessel, or machinery and equipment of any of the foregoing, the performance of either vessel's personnel, or unfavorable weather, river, seas, or other environmental condition. In no event shall CFS have any liability for its exercise or failure to exercise its right to suspend or terminate fuel transfer and **Customer hereby waives any claim for damages arising from any such suspension or termination, including but not limited to those damages identified in Paragraph 9, "Limitation of Liability."**
9. **Limitation of Liability.** NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, OR UNFORESEEN DAMAGES, OR FOR LOSS OF ACTUAL OR PROJECTED PROFITS (EXCLUDING THOSE DERIVED FROM THE PRICE QUOTE), ARISING FROM OR RELATED TO THE FAILURE TO PERFORM UNDER THESE STANDARD TERMS. CFS WILL NOT BE LIABLE FOR ANY DEMURRAGE OR OTHER COSTS OR DAMAGES INCURRED BY CUSTOMER RELATED TO CFS' DELAY IN DELIVERY OF FUEL.
10. **No Waiver and Amendments.** Delay or failure to exercise any right or remedy hereunder will not impair such right or remedy or be construed as a waiver thereof or as acquiescence in a breach of these Standard Terms. Any single or partial exercise of any right or remedy will not preclude any other or further exercise thereof or the exercise of any other right or remedy. These Standard Terms cannot be amended without a written agreement signed by both parties, and specifically, any agreement to amend or modify the terms herein must be signed by the chief commercial officer of CFS, and further, no CFS employee, other than the president, has authority to receive notice of or consent to terms other than as provided in these Standard Terms.
11. **Governing Law.** To the extent not preempted by Federal law, these Standard Terms are governed by and construed in all respects in accordance with the laws of the State of Tennessee, without regard to its conflict of laws statutes or precedent. The parties hereby irrevocably consent and voluntarily submit to the exclusive jurisdiction and venue in the state and Federal courts located in the Middle District of Tennessee, and agree that all claims raised in such proceedings will be heard and determined in such court.
12. **Modification.** If any provision of these Standard Terms, or the application of any such provision to any person or circumstance is held invalid, illegal, or unenforceable for any reason whatsoever, the remaining provisions of these Standard Terms and the application of such provision to other persons or circumstances will not be affected thereby and to the fullest extent possible the court finding such provision invalid, illegal, or unenforceable must modify and construe the provision so as to render it valid and enforceable as against all persons or entities and to give the maximum possible protection to the party or parties affected within the bounds of validity, legality, and enforceability.
13. **Acceptance; Authorization.** Unless governed by a separate, mutually signed, written agreement, Customer's placement of an order with CFS will be deemed Customer's full acceptance of these Standard Terms. Each party hereby represents and warrants to the other party as follows: (a) such party has the requisite authority to enter into and perform the obligations of these Standard Terms; (b) these Standard Terms constitute the legally binding obligation of each party; and (c) either party's execution and performance under these Standard Terms will not result in a breach of any obligation to any third party or infringe or otherwise violate any third party's rights.

- 14. Additional, Different, or Conflicting Terms in Customer's Own Documentation.** Customer further agrees that to the extent that any additional, different, or conflicting terms (or any combination thereof) are found in any ordering, invoicing, shipping, delivery, or any other document CFS receives from Customer (whether expressly stated therein or incorporated by reference) such terms will be deemed superseded and governed by these Standard Terms (to the extent different or conflicting) and will be deemed void and inapplicable (to the extent that such terms are additional). Notwithstanding the above, CFS can expressly consent to the additional terms of Customer, but only by providing an ink-signed or electronically-signed agreement with Customer in which the additional, different, or conflicting terms are clearly identified and in which the following phrase is conspicuously included: "CFS hereby expressly consents and agrees to the inclusion of these additional, different, or conflicting terms in the agreement governing Customer's purchase of fuel, lube, or other supplies or services." Customer hereby irrevocably waives any claim or argument—on behalf of itself and any party for which it has actual or apparent authority to bind—that additional, different, or conflicting terms found in its own transaction-related document(s) are enforceable against CFS unless they strictly comply with the preceding sentence.
- 15. Disposal Services.** CFS may, in its sole discretion, offer certain miscellaneous disposal services to its Customers, which are provided on the CFS Pre-Transfer Conference document. If CFS agrees to accept certain waste items from Customer, then Customer agrees to the restrictions and policies provided on the Pre-Transfer Conference document. Customer further agrees that no waste items it disposes with CFS will contain any hazardous materials, wastes or substances; toxic substances, wastes or pollutants; contaminants; pollutants; infectious wastes; medical wastes; or radioactive wastes (collectively, "Excluded Waste"), each as defined by applicable federal, state or local laws or regulations. **CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CFS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, SUITS, PENALTIES, FINES, REMEDIATION COSTS, AND LIABILITIES (INCLUDING COURT COSTS AND REASONABLE ATTORNEYS' FEES) RESULTING FROM THE INCLUSION OF EXCLUDED WASTE IN THE WASTE MATERIALS DISPOSED WITH CFS.**