

Heating Oil

1555 Van Horn Road
Fairbanks, AK 99701
Phone (907) 456-7798

SOURDOUGH FUEL TERMS AND CONDITIONS

Bulk Plant Sales

418 Illinois Street
Fairbanks, AK 99701
Phone (907) 452-0691

1. **Applicability.** (a) These terms and conditions of purchase (these “**Terms**”) are the only terms which govern the purchase and delivery of fuel (“**Fuel**”) by **Purchaser** from the **Seller** (these “**Terms**” together with the “Consumer Credit Application and Terms and Conditions”, this “**Agreement**”); and (b) this Agreement comprises the entire agreement between the parties and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral.

2. **Changes/Cancellation.** Purchaser acknowledges and agrees that he or she must provide at least fifteen (15) business days written notice to terminate Automatic Delivery Services. If notice is given by mail, to be properly noticed it must be sent via certified or registered mail. Any changes or modifications to Fuel orders must be in writing and received at least fifteen (15) business days prior to the date of the requested change. All pricing is **subject to change**, regardless of prepayment or payment plans. For all of our prices, we reserve the right to make adjustments due to changing market conditions, price changes, errors in advertisements, and other extenuating circumstances. Purchaser will be invoiced for prices in effect at the time of delivery.

3. **Delivery & Force Majeure.** Title and risk of loss shall transfer to Purchaser at the time of delivery. Seller assumes no responsibility or liability for Seller’s non-performance caused by a force majeure event including, but not limited to an act of God, war, labor disputes, civil unrest, accidents, pandemics, the inability to obtain Fuel, earthquake, mechanical breakdown, interruption of manufacture or delivery of Fuel, delays of carriers, contractors or suppliers, or any other causes beyond Seller’s control. Seller reserves all rights to refrain from or halt any delivery due to safety or environmental concerns, or if in Seller’s sole discretion, it determines that Purchaser has not met its obligations as set forth in this Agreement.

4. **Purchaser’s Responsibilities.** Purchaser shall be solely responsible for providing and maintaining a fully functioning heating oil tank and acknowledges and agrees that Seller shall have **no** liability if damages relate to or arise from Purchaser’s failure to provide and maintain a functioning heating oil tank. In accordance with this responsibility, Purchaser shall maintain in good operating condition and in conformance with applicable rules, regulations, and best practices, the fuel tank, as well as any and all related storage and equipment (including but not limited to pipes, pumps, furnaces, etc.). Seller has no obligation to verify or confirm that Purchaser’s obligations have been met. In addition, Purchaser shall maintain access to Purchaser’s premises and heating oil tank, as well as all related equipment such that Seller is able to safely deliver Fuel in Seller-provided equipment, including for example only, to ensure the area Seller needs to access is clean and clear of snow, debris, etc. Purchaser acknowledges and agrees that Seller shall have **no** liability if damages relate to or arise from Purchaser’s failure to ensure the premises and heating oil tank can be safely accessed by Seller.

Purchaser shall also be solely responsible for notifying Seller of any circumstances or conditions that would impact fuel delivery, including any and all absences from the home, or other circumstances that may impact Fuel use, such as use of or discontinuing use of other heat sources (e.g., wood stoves or sources of heat other than oil). Purchaser acknowledges and agrees that he or she is solely responsible for ordering Fuel quantities and shall bear all liability and responsibility should the Fuel supply be inadequate. For example, and for clarity purposes, in winter conditions, circumstances such as a prolonged absence may impact home heating demands. **Purchaser shall be responsible for ensuring the home is adequately heated in all such circumstances and Seller shall have no responsibility or liability for any issues or damages arising from Fuel supply issues.** In accordance with the terms of this Agreement, Purchaser assumes responsibility for handling and storing Fuel upon delivery. All claims for damage, shortage, and improper delivery must be made to Seller promptly at the time of delivery, after which date Purchaser will be deemed to have accepted the Fuel and will have no right to revoke acceptance.

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5. **Payment.** Seller shall issue an invoice to Purchaser on or at any time after the completion of delivery. Purchaser shall pay all properly invoiced amounts due to Seller within thirty (30) days after Purchaser's receipt of delivery. In the event of late payment, Seller is entitled to treat Purchaser's entire account(s) as immediately due and payable without notice or demand. All past due amounts are subject to a service charge accruing at a rate of .875% per month, plus costs of collection, including attorney fees, if incurred. Purchaser shall not be allowed to retain or holdback payment, and Purchaser's payment obligations are not contingent on any event. Purchaser's receipt of payment or funds from a third party shall in no way relieve Purchaser's obligations to pay Seller. Purchaser is not entitled to set-off amounts due to Seller by Purchaser in connection with any transaction governed by these Terms. In the event of a payment dispute, Purchaser shall deliver a written statement to Seller no later than ten (10) days prior to the date payment is due on the disputed invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed are deemed accepted and must be paid, notwithstanding disputes on other items, within the period set forth in this paragraph. The parties shall seek to resolve all such disputes expeditiously and in good faith. Seller shall continue performing its obligations under this Agreement notwithstanding any such dispute.

6. **Limitation of Liability; Waivers.** With respect to any claims asserted by Purchaser for damages or injuries to persons or property, Seller shall be liable only for damages and injuries caused by Seller's gross negligence or willful misconduct, and in no event shall Seller be liable for any special, consequential, or incidental damages.

7. **Specific Warranties & Disclaimer of Other Warranties.** Seller warrants that it has title to Fuel and that such Fuel meets the specifications set forth in the certificate of analysis, or, if none are set forth, the specifications for Fuel that are customary at the time and place of delivery. SELLER MAKES NO OTHER WARRANTIES, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY EXCLUDED AND DISCLAIMED.

8. **General Indemnification.** Purchaser shall defend, indemnify and hold harmless Seller and all of its respective members, shareholders, officers, directors, employees, agents, licensees, representatives, and assigns (collectively, "Indemnified Parties") against any suit, cause of action, arbitration/mediation proceeding, judgment, demands, losses and liabilities, or claim ("claim") for damages (including but not limited to, property damage, bodily injury, death, infringement, the liability of any nature, costs, fines, penalties, and expenses, including reasonable attorney's fees and any other cost of litigation) to or by any and all persons or entities (including without limitation, the Indemnified Parties) arising out of, resulting from, or connected with Purchaser's use of Fuel, including but not limited to: (i) any breach by Purchaser of this Agreement (including without limitation any breach of Purchaser's responsibilities as set forth in paragraph 4 of this Agreement); (ii) Purchaser's negligence or misconduct; or (iii) Purchaser's handling, storage, sales, transportation, use, misuse, or disposal of Fuel purchased pursuant to this Agreement.

9. **No Waiver of Performance.** The failure of Seller to insist, in any one or more instances, upon the performance of any of the Terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of term, covenant, condition, or the rights and remedies of Seller, nor its right to insist upon strict performance of such term or of any other term in the future. No waiver of any of these Terms will be valid unless agreed to in writing by an authorized representative of Seller.

10. **Governing Law.** This Agreement shall be governed and construed by the laws of the State of Alaska without regard to conflicts of law principles.