

## TERMS OF AUTOMATIC DELIVERY AGREEMENT

These Terms are part of all Bottini Fuel Automatic Delivery Plans. The words “we”, “us”, “our”, “Seller” and “ours” mean Bottini Fuel. The words “you”, “your” and “yours” mean each and every Buyer and/or Customer. The word “location” means the address identified by you as the location for us to deliver fuel.

1. Pricing; Pricing Period: We offer to sell you fuel, together with a price plan for a pricing period on terms that we and you agree on ("Price Plan"). The word “Agreement” means collectively the Price Plan, these terms and conditions and any agreed renewal terms. You agree to the use of electronic communication, including the Internet, the World Wide Web or telephonic recordings (or similar technology), to enter into contracts, place orders and create other records with us.

2. Deliveries: Fuel deliveries will be made to you at your location on an automatic degree-day basis, subject to these terms and conditions. You will be charged existing market price for fuel deliveries to your location not required by our automatic degree-day basis or your Price Plan. You may lease or purchase an optional tank monitor pursuant to an additional agreement. The account will remain on automatic delivery after price protection ends.

3. Non Delivery Conditions: We shall not be in breach of this Agreement if we are prevented from or delayed or hindered in performing any of our obligations by any circumstances which are beyond our control or which we could not reasonably be expected to control, including but not limited to: any act of terrorism, war, riot, blockage, embargo, strike, lockout, fire, explosion, flood, extreme adverse weather, accident, shortages of fuel or labor, transport or electricity, acts of any type by any governmental authority, the inability of our hedging counterparty under our hedging instructions to fulfill its obligations pursuant to an instrument’s terms, or if your demand for fuel exceeds all reasonable estimates of what you will consume, based on your past usage if an existing customer, or on our estimates if a new customer. We are not responsible for damages for failure to deliver fuel to vacant or unattended premises (in these terms and conditions, the term “vacant or unattended premises” shall mean premises at which no adult occupant is present for at least twenty-four (24) consecutive hours). In each and every case, we have the right to postpone any delivery without any liability whatsoever.

4. Fuel Tank, Oil Piping and Environmental Liability Disclaimer: We are not obligated to inspect, repair, monitor, or replace any equipment, including (without limitation) boiler, storage tank, oil lines and/or piping. You are responsible for the condition and maintenance of all equipment at your premises, including (without limitation) the boiler, fuel tank, oil lines and piping. This Agreement does not insure against equipment failure, tank or oil line leakage, or any damages to persons or property resulting from tank or line leakage or boiler malfunction. This Agreement does not cover installation, cleanup, removal, remedial, or other costs of compliance with any environmental or other laws, rules or regulations. Customer is solely responsible for compliance with all applicable laws, including, but not limited to, all spill notification requirements imposed by any governmental authority. WE WILL NOT BE RESPONSIBLE FOR ANY BODILY INJURY, PROPERTY DAMAGE, OR A DECREASE IN PROPERTY VALUE ARISING OUT OF THE DISPOSAL, DISCHARGE, DISPERSAL, RELEASE OR ESCAPE OF ANY PETROLEUM SUBSTANCES, DERIVATIVES OR SOOT INTO OR UPON YOUR PROPERTY, ANY SURROUNDING PROPERTY, THE ATMOSPHERE OR ANY WATER COURSE OR BODY OF WATER UNLESS SUCH RELEASE IS DIRECTLY CAUSED BY OUR GROSS NEGLIGENCE.

5. Waiver of Subrogation: Buyer waives any and all rights of subrogation and/or recovery against Seller, including our officers, members, agents and employees, arising out of this Agreement, the delivery of fuel or any service or repair at your premises to the extent such loss or damage is covered by proceeds received from casualty, homeowner’s or other insurance carried by the other party. Buyer shall have no right of recovery against the Seller, its agents, servants, contractors or employees. No third-party, including (but not limited to) any insurance carrier, shall have any right of recovery (whether based in tort, contract or otherwise) by way of subrogation or assignment or otherwise.

6. Late Fee: If we do not receive full payment of any invoice by 30 days from the invoice date, you must pay a late fee. The late fee will appear on your next Statement. We compute the late fee based on a periodic rate of 2% per month, which is an ANNUAL PERCENTAGE RATE of 24%, with a minimum late fee of \$0.50. We will compute the late fee on your average daily balance using the Adjusted Balance Method. In no event will the late fees be more than the law allows.

7. Collection Costs: If we hire an attorney or collection agency to collect your outstanding balance, you agree to pay, in addition to your balance, all costs of collection as permitted by law, including (without limitation) reasonable attorney and agency fees and court costs. We can accept late payments, partial payments or

payments marked "payment in full," without losing any of our rights under the Agreement. We can also delay in enforcing our rights under the Agreement without losing any of our rights under the Agreement.

8. Assignment: You are not allowed to assign the Agreement or any rights hereunder without our prior written consent.

9. Termination: You agree to remain responsible for payment for all deliveries made and services rendered and for the Early Termination Fee due (Section 9), if applicable. If you fail to make a payment on time, we may suspend deliveries and service or terminate the Agreement with or without notice and without further responsibility and you may be liable for the Early Termination Fee. These terms and conditions remain in effect until we issue new terms and conditions. The Price Plan remains in effect until its expiration date or unless terminated as provided in these terms and conditions.

10. Early Termination Fee : If you are on a protected price plan and your account is terminated by you or by us pursuant to Section 9 (Termination) or for any other reason, you agree to pay us an Early Termination Fee and to remain responsible for payment of all deliveries made and services rendered prior to the effective termination date. You and we expressly acknowledge that we may enter into futures contracts, or other similar instruments, to meet our contractual requirements under your protected price plan. If this Agreement terminates for any reason, you agree to pay us an Early Termination Fee equal to all damages to us caused by the termination, including all costs to us of breaking, on the date of termination, a futures contract, or other instrument, with respect to the fuel you have agreed to purchase. You agree to be bound by our calculation of the Early Termination Fee (liquidated damages).

11. Limits of Liability: We will not be responsible for loss or damages due to or resulting from: changes in oil consumption; your failure to schedule maintenance; acts of God; terrorism; strikes; riots; material or labor shortages; fire; flood; hurricane; power interruption or loss; accidents; governmental acts; abuse or misuse of equipment; spontaneous part failure; insufficient water; frozen or jelled oil lines; or any other conditions beyond our reasonable control, including occurrences at vacant, unattended or unoccupied house. TO THE MAXIMUM EXTENT PERMITTED BY LAW, we will have no liability for direct or indirect, special or consequential damages of any kind whatsoever. We are not responsible for secondary damage as a result of a delay in rendering service. IN NO EVENT SHALL OUR LIABILITY TO YOU OR OTHERS UNDER THIS AGREEMENT OR OTHERWISE EXCEED \$1,000.00.

12. Statute of Limitations: Any and all actions, whether based in contract or tort, whether for personal injury or property damage, and whether brought by Buyer or Buyer's insurance company, must be commenced within one year after the cause of action arose or shall be barred.

13. Severability: If a court or regulatory agency of competent jurisdiction holds any provision of this Agreement to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

14. Governing Law; Entire Agreement: This Agreement shall be construed in accordance with and be governed by the laws of the State of New York, without regard to conflict or choice of law principles. The parties acknowledge the exclusive jurisdiction of the federal or state courts of the State of New York, Dutchess County, over the adjudication or resolution of any dispute arising under this Agreement. These terms, along with the Price Plan and any agreed written renewal terms, together constitute the entire agreement between us. Any statements not contained in these standard terms and/or in any optional Price Plan or tank monitoring agreement are not part of this Agreement. These terms (including the documents referred to herein) constitute the entire agreement among the Parties and supersede any prior understandings, agreements, or representations by or among the Parties, written or oral, that may have related in any way to the subject matter hereof. No amendment of this Agreement shall be valid unless the same shall be in writing and signed by an authorized representative of each of the Parties