

Margin-Over-Rack (MOR)
Agreement For Delivery of Home Heating Oil to Certified Clients of the Massachusetts Low-Income Home Energy Assistance Program

Agreement for the delivery of #2 residential heating oil pursuant to the Massachusetts Department of Housing and Community Development/Division of Community Services (DHCD/DCS) Low-Income Home Energy Assistance Program (the "Program") made this _____ day of _____, 2_____, by and between _____ (the Agency), _____ (Vendor legal or DBA Name) and Employer Identification Number (EIN): _____

In consideration of the mutual promises hereafter stated, the Agency and the Vendor agree as follows:

1. The Vendor shall, in each case where a delivery to one of its customers certified as eligible under the Program (Certified Customer) is authorized by the Agency:
 - submit a bill to the Agency at the posted price per gallon charged to non-certified similarly situated customers, including those discounts for Certified Customers who are members of an established co-operative;
 - apply payments received against current deliveries only, and not bills incurred prior to November 1st of the program year;
 - until the Certified Customer's benefits under the Program are exhausted or until April 30th of the contract year, whichever occurs earlier, bill the Certified Customer directly only for total accounts receivable covering bills incurred prior to November 1st and/or other non-heating oil expenses not eligible for payment under the Program. The Certified Customer shall not be billed in any amount for gallons of oil delivered under the Program and paid for by the Agency pursuant to this Agreement.
 - not discriminate against the Certified Customer on any basis prohibited by law, including, without limitation, offering deferred payment, level payment, credit, discount, budget, advance payment or other credit plans;
 - make current deliveries to Certified Customers regardless of debt arrearage status, or shall hold harmless the Agency for arranging oil delivery by another oil vendor; and
 - not disclose to any individual or entity the Certified Customer's participation in the Program, except as authorized in writing by the Certified Customer and the Agency for Program purposes.
2. If requested by the Agency, the Vendor shall provide, at no cost to the Agency or Certified Customer, an annual oil cost, consumption record, non-delivery information, and arrearage amount for each Certified Customer, within a time frame specified by the Agency.
3. The Vendor shall make deliveries in accordance with established business practices, within a delivery schedule negotiated with the Certified Customer and secure the Certified Customer's signature on every metered delivery ticket. If the customer is not available, the Vendor's representative shall sign/initial the ticket. With each delivery, the Vendor shall provide a copy of the metered delivery ticket to the Certified Customer. No deliveries, except those agreed to by the Vendor and the Agency, shall be required on Saturdays, Sundays, or Holidays. Except in the case of emergency the Agency agrees to give the Vendor 24 hours advance notice of requested delivery. Minimum delivery authorized shall be 100 gallons unless otherwise agreed by the Vendor and the Agency and subject to the Certified Customer's maximum benefit level.
4. The Vendor shall submit metered delivery slips (or legible copies by the 15th of the month for the preceding month's billing showing the Certified Customer's name and address, date of delivery, number of gallons delivered, the Vendor's posted price with adjustments for oil co-op, established

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discount and/or prepaid discount prices on date of delivery, total delivery cost, and signed by the Certified Customer or the Vendor's authorized representative in accordance with industry practice, or shall submit a computerized invoice showing the Certified Customer's name and address, date of delivery, number of gallons delivered, posted price on that day with adjustments for oil co-op, established discount and/or prepaid discount prices, and total cost of the delivery, by the 15th of the month for preceding month's billing. Within 30 days of the date on which the invoice is received by the Agency, the Agency shall mail payment to the Vendor unless the Agency has not received funds from DHCD/DCS sufficient to cover such payment. The Vendor shall submit final billing by June 15th of the program year.

5. For every gallon of oil delivered to a Certified Customer under the Program, the Agency shall reimburse the Vendor the amount which equals the lesser of the Vendor's posted price on the date of delivery with adjustments for oil-co-op, established discount and/or prepaid discount prices or the price calculated adding a margin of 40 cents to a daily or weekly average rack price based on "Oil Price Information Service (OPIS) Web Rack" as calculated by DHCD/DCS.

Balance billing of the differential between retail gallons delivered and gallons paid for by the Agency is not allowed.

6. The Agency and the Vendor agree that in the event of unusual oil market volatility resulting in significant changes in the wholesale pricing of #2 home heating oil, DHCD/DCS may, at its discretion, suspend temporarily or otherwise the pricing method set forth in paragraph 5 above, in order to provide emergency relief to participating vendors. Such suspension may include, without limitation, an adjustment or change in the method of calculating the rack price to which the margin is added. The Agency shall notify the Vendor concerning any such suspension following written notification to the Agency from DHCD/DCS.
7. The Agency shall promptly notify the Vendor of the eligibility of each Certified Customer in writing within 7 days of certification of eligibility.
8. Except in the case of an emergency, the Vendor agrees to deliver #2 heating oil to Certified Customers as authorized by the Agency within a delivery schedule negotiated with the Certified Customer.
9. The Agency and the Vendor agree funds for this Agreement shall be expended in accordance with the LIHEAP statute and regulations, the Massachusetts LIHEAP State Plan and Plan amendments and pursuant to established procedures set forth in DHCD/DCS "Administrative Guidance for Program Operators" as it may be reviewed or amended.
10. The Vendor agrees to defend, reimburse, indemnify, and hold harmless the Agency and the Commonwealth from any and all claims, debts, losses, causes of action and liabilities arising from any default or any negligent or wrongful act or omission of the Vendor, its agents, employees, or subcontractors.
11. The Vendor agrees to allow representatives of the Agency and the Commonwealth (including without limitation DHCD/DCS) upon reasonable notice, access to all of its books and records for the purpose of verifying compliance with this Agreement. Vendor Monitoring procedures by DHCD/DCS and the Agency shall include examination, during site visits to the Vendor, of delivery tickets/invoices for both Certified Customers and non-fuel assistance customers, to ensure pricing uniformity, correctness of billing, and compliance with applicable Massachusetts laws.

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12. The Agency may terminate this Agreement in writing and cease immediately making any further payments under the Program to the Vendor in the event the Vendor violates any material provision of this Agreement.
13. Unless amended, the period of performance of this Agreement shall be October 1, 2010 through September 30, 2011.
14. Any amendments to this Agreement shall be in writing, signed by both the Vendor and the Agency and require prior written approval by DHCD/DCS.

AGENCY: _____
Signature

Name: _____

Title: _____

Date: _____

Vendor: _____
Signature

Name: _____

Title: _____

Date: _____

Attachment 1: Certificate of Business, Business Permit or Certificate of Good Standing.