

**TRADEMARK LICENSE AGREEMENT  
For Distributors**

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Execution Date"), by and between Clean Fuels Alliance America, a non-profit corporation organized in the state of Iowa, with offices located at 605 Clark Avenue, Jefferson City, Missouri 65101 ("CLEAN FUELS"), and \_\_\_\_\_, with offices located at \_\_\_\_\_ ("Licensee") (CLEAN FUELS and Licensee being collectively referred to as the "Parties").

**WITNESSETH:**

WHEREAS, CLEAN FUELS owns the trademarks "THE EVOLUTION OF OILHEAT," and "AMERICA'S ADVANCED BIOFUEL," as used in association with fuel oil (collectively the "non-BioMarks"), the trademarks "BIOHEAT DESIGN MARK," the "BIOHEAT PLUS DESIGN MARK," and the "BIOHEAT SUPER PLUS DESIGN MARK," shown in attached Exhibits "A" and "B" (collectively the "Design Marks") and trademark BIOHEAT as used in association with certain fuel oil (BIOHEAT and the Design Marks being collectively referred to as the "BioMarks") (the non-BioMarks and BioMarks being collectively referred to as the "Marks").

WHEREAS, Licensee desires to use the Marks in connection with the identification, marketing, distribution, delivery, and/or promotion of ASTM D6751 compliant B100 biodiesel and blends of B100 biodiesel mixed with ASTM D396 compliant heating oil (collectively the "Products") in the United States (the "Territory");

WHEREAS, CLEAN FUELS is willing to permit such use of the Marks under the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the promises and agreements set forth herein, the Parties, each intending to be legally bound hereby, do promise and agree as follows.

**1. LICENSE GRANT.** CLEAN FUELS hereby grants to Licensee, during the Term of this Agreement, a non-exclusive, non-sublicensable, nontransferable license to use the Marks solely to identify, market, distribute, deliver, and/or promote the Products in the Territory in accordance with this Agreement (the "License"). CLEAN FUELS grants Licensee the License only for use of the Marks in association with the Products and does not extend to any other mark, product, or service. This Agreement is not revocable except in accordance with Section 10 below. CLEAN FUELS hereby reserves all rights not explicitly granted under this Agreement, including Clean Fuels' right to authorize or license use of the Marks to any third-party for use in connection with any goods and services. Any use of the Marks other than as specifically authorized under this Section 1 is strictly prohibited.

**2. TERM OF THE AGREEMENT.** The initial term of this Agreement shall be for a Ten (10) year term beginning on the Execution Date and shall automatically renew for successive Ten (10) year terms until otherwise terminated in accordance with the provisions of Section 10 below (collectively the "Term").

### **3. USE OF THE MARKS.**

A. Licensee shall strictly adhere to the trademark usage manual attached hereto as Exhibit "C."

B. Licensee shall not use the term "BIOHEAT" standing alone apart from a Design Mark. Licensee shall ALWAYS use the term "BIOHEAT" as an adjective, in association with a noun, such as "fuel," "biodiesel," "fuel oil," etc. Licensee shall not use the Design Marks in combination with any other words, images, or trademarks.

C. Licensee's use and displays of any of the Marks shall conform to the trademark usage manual attached hereto as Exhibit "C." If Licensee has any questions or concerns regarding a proposed use of the Marks, Licensee may request pre-approval of such usage by forwarding such usage to CLEAN FUELS.

D. Licensee shall not use the Marks in any way that disparages CLEAN FUELS, or its Products, programs, or services, or in any manner that would diminish or otherwise damage the goodwill or reputation of CLEAN FUELS or any of its members, including, but not limited to, uses that could be deemed to be obscene, pornographic, excessively violent, otherwise in poor taste or unlawful, or for the purpose of encouraging unlawful activities.

E. Licensee shall not use the Marks in association with products or services that do not meet the standards of Section 7 below.

F. Licensee shall only use the Marks in association with Products or services that meet the standards of Section 7 below.

G. When using the Marks in association with Products, Licensee shall always use the Marks in association with the registered trademark symbol (i.e., Bioheat®, The Evolution of Oilheat®, etc.) and shall always use the Design Marks as shown in Exhibits A and B. When using The Evolution of Oilheat® trademark in association with any of the Design Marks, Licensee shall always use the Marks in association with the registered trademark symbol (i.e., Bioheat® and The Evolution of Oilheat®) and shall always use The Evolution of Oilheat® trademark in association with any of the Design Marks as shown in Exhibit B.

H. All Marks are the exclusive property of CLEAN FUELS. Licensee shall not take any action that jeopardizes Clean Fuels' proprietary rights or acquire any right in the Marks. Licensee shall not register, directly or indirectly, any trademark, service mark, trade name, copyright, company name or other proprietary or commercial right that is identical or confusingly similar to the Marks or that constitute a translation into other languages. Licensee shall use the Marks exclusively to identify Products.

### **4. AUDIT.**

A. CLEAN FUELS shall have the right, upon reasonable notice to Licensee, to inspect any Products identified, marketed, distributed, delivered, and/or promoted by Licensee displaying any of the Marks. Licensee shall cooperate fully in providing CLEAN FUELS access to or assisting CLEAN FUELS in gaining access to such Products. Upon request

from the CLEAN FUELS, Licensee shall provide documentation to CLEAN FUELS verifying such Products are in compliance with the terms of this Agreement.

B. Licensee shall comply with all applicable laws and regulations in its advertising, promotion, display, and use of the Marks.

C. Should CLEAN FUELS provide Licensee written notice that any activity of Licensee is a violation of any provision of this Agreement, Licensee shall immediately discontinue any such violation unless Licensee disputes the notice of violation in a written response to CLEAN FUELS within Fourteen (14) days explaining why no violation has occurred. After receipt of Licensee's written response, Clean Fuels shall make a final determination about whether a violation has occurred and the appropriate remedy that may include, but is not limited to, termination of this Agreement.

## **5. WARRANTIES AND OBLIGATIONS.**

A. CLEAN FUELS represents and warrants that it has the right and power to grant the License granted herein and that there are no other agreements with any other Party in conflict herewith. CLEAN FUELS does not extend any additional warranties, express or implied, other than as provided for herein.

B. Licensee represents and warrants that it will use its best efforts to identify, market, distribute, deliver, and/or promote Products as Bioheat® fuel.

C. Licensee shall be solely responsible for all costs incurred by Licensee associated with identifying, marketing, distributing, delivering, and/or promoting Products in association with the Marks.

D. IN NO EVENT SHALL CLEAN FUELS HAVE ANY LIABILITY, WHETHER BASED IN CONTRACT OR TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR BY MISREPRESENTATION, WARRANTY OR OTHER STATUTORY, LEGAL, OR EQUITABLE GROUNDS, FOR ANY THIRD-PARTY CLAIMS AGAINST LICENSEE FOR LOSSES, DAMAGES, OR EXPENSES ASSOCIATED WITH LICENSEE'S USE OR MISUSE OF THE MARKS.

**6. SUBLICENSE.** Licensee shall have no right to sublicense any rights granted to Licensee under this Agreement. Licensee shall not use the Marks except as specifically authorized under this Agreement. Licensee shall use best efforts to comply with the requirement for usage of the Marks provided for hereunder. Licensee shall receive no rights or licenses to the Marks except as specifically provided for under this Agreement, during the Term of this Agreement.

## **7. QUALITY CONTROL AND SAMPLES FOR FUEL LICENSEES.**

A. The License granted hereunder is conditioned upon Licensee's full and complete compliance with the marking provisions of the trademark laws of the United States, including use of the symbol "®" when Licensee uses the Marks in association with fuel.

B. Use of the non-BioMarks shall only be in association with the identification, marketing, distribution, delivery, and/or promotion of Products. The non-BioMarks shall only be used in association with biodiesel that meets ASTM specification ASTM D6751 and only in association with Products that contain a minimum of 2% biodiesel, with the remainder of the fuel oil being fuel oil conforming to specification D396 grades No. 1 or No. 2 ultra-low sulfur heating oil. Use of the BioMarks shall only be in association with the identification, marketing, distribution, delivery, and/or promotion of Products as follows: 1) Any use of the BIOHEAT mark and any use of the BIOHEAT DESIGN MARK shown in Exhibits A-B, shall only be in association with biodiesel that meets ASTM specification ASTM D6751 and only in association with Products that contain at least 2-5% biodiesel, with the remainder of the fuel oil being fuel oil conforming to specification D396 grades No. 1 or No. 2 ultra-low sulfur heating oil; 2) Any use of the BIOHEAT PLUS mark and any use of the BIOHEAT PLUS DESIGN MARK shown in Exhibit A-B, shall only be in association with biodiesel that meets ASTM specification ASTM D6751 and only in association with Products that contain of 6-20% biodiesel, with the remainder of the fuel oil being fuel oil conforming to specification D396 grades No. 1 or No. 2 ultra-low sulfur heating oil, and 3) Any use of the BIOHEAT SUPER PLUS mark and any use of the BIOHEAT SUPER PLUS DESIGN MARK shown in Exhibit A-B, shall only be in association with biodiesel that meets ASTM specification ASTM D6751 and only in association with Products that contain a minimum of 21% biodiesel, with the remainder of the fuel oil being fuel oil conforming to specification D396 grades No. 1 or No. 2 ultra-low sulfur heating oil.

C. If CLEAN FUELS determines that the Products created or distributed by Licensee fail to meet the above criteria, CLEAN FUELS will provide written notice to Licensee of this failure. Licensee shall use its best efforts to remedy any uncontested failure within a commercially reasonable time of receiving Clean Fuels' notice.

D. CLEAN FUELS may request samples of the Products from Licensee and Licensee shall be obligated to provide CLEAN FUELS with requested samples within Thirty (30) days of such a request.

E. Licensee shall comply with all applicable laws and regulations in its advertising, promotion, display, and use of the Marks. Licensee is encouraged to inform its customers and end-users of the percentage of biodiesel in specific Product provided to such customers or end-users.

## **8. NOTICE.**

A. Each Party will send notices required under this Agreement in writing to the other designated Party at the above stated address, mailed by certified or registered mail, return receipt requested, or delivered by a recognized national overnight courier service.

B. Each Party will send the other Party a written notice of any change of its address.

**9. OWNERSHIP OF THE MARKS.**

A. Licensee acknowledges that CLEAN FUELS is the owner of all rights in the Marks, any trademark applications and/or registrations thereto, and all associated goodwill. Licensee shall do nothing inconsistent with Clean Fuels' intellectual property rights in the Marks and agrees that all use of the Marks by Licensee shall inure to the benefit of CLEAN FUELS. Licensee shall not obtain any rights to the Marks except the specific, non-exclusive, limited License granted hereunder during the Term. Licensee agrees that nothing in this Agreement shall give Licensee any right, title, or interest in the Marks other than the right to use the Marks in accordance with this Agreement. Licensee shall not register or attempt to register any of the Marks as a trademark, service mark, Internet domain name, or trade name with any domestic or foreign governmental or quasi-governmental authority. Licensee shall not violate any of Clean Fuels' intellectual property rights in the Marks. The provisions of this Section shall survive the expiration or termination of this Agreement.

B. Licensee shall execute any documents reasonably requested by CLEAN FUELS to secure protection of any of the Marks.

C. Licensee does not license, permit, or allow CLEAN FUELS to use any of Licensee's trademarks, copyrights, trade names, or other intellectual properties (collectively, "Licensee Properties") through this Agreement. CLEAN FUELS must obtain Licensee's prior written consent to use any Licensee Properties.

**10. TERMINATION.** The following termination rights are in addition to the termination rights that may be provided elsewhere in this Agreement. Licensee may terminate this Agreement at any time for any reason, or for no reason, by written notice to CLEAN FUELS thereof.

This Agreement shall immediately terminate:

A. One Hundred and Twenty (120) days after the delivery by CLEAN FUELS to Licensee, in writing, of any new trademark license agreement for review and execution, regardless of whether or not Licensee executes such new trademark license agreement; or

B. Upon written notice to Licensee of CLEAN FUELS' decision to terminate this Agreement in accordance with Section 4.C above.

CLEAN FUELS shall have the right to terminate this Agreement without cause upon One Hundred and Twenty (120) days written notice to Licensee given prior to the end of the then-current Term. CLEAN FUELS shall also have the ability to take action against a Licensee, up to and including termination of this Agreement for cause upon One Hundred and Twenty (120) days prior written notice to Licensee in the event of any of the following:

A. Licensee fails to continuously use at least one the Marks in accordance with the terms of this Agreement for at least one (1) year;

B. Licensee breaches any of the provisions of this Agreement relating to the unauthorized assertion of rights in the Marks and fails to cure such breach within Thirty

(30) days of Licensee's receipt of written notice from CLEAN FUELS of such breach;

C. Licensee fails, within Thirty (30) days of Licensee's receipt of written notice from CLEAN FUELS, to discontinue the distribution or sale of any Products that do not contain appropriate use of the registered trademark symbol in association with the Marks;

D. Licensee breaches any material clause of this Agreement and fails to cure such breach within Thirty (30) days of receipt of written notice of such breach from CLEAN FUELS; or

E. Upon receipt of any written notice from CLEAN FUELS under this section, Licensee shall have the right to promptly contest the notice in writing and CLEAN FUELS will promptly review any such contest from Licensee and will work in commercially reasonable good faith with Licensee to resolve the issue.

**11. POST TERMINATION RIGHTS.** All of the rights of Licensee under this Agreement shall automatically terminate upon termination of this Agreement, and shall revert back to CLEAN FUELS. Upon termination of this Agreement, Licensee shall immediately discontinue all use of the Marks, at no cost whatsoever to CLEAN FUELS. Upon termination of this Agreement for any reason whatsoever, Licensee shall promptly (within 30 days) destroy or return to CLEAN FUELS all documents received from CLEAN FUELS associated with any of the Marks including, but not limited to, all written or digital material, artwork, and the like, at no cost to CLEAN FUELS.

**12. RESTRICTIONS.**

A. This License is non-exclusive and revocable in accordance with Section 10;

B. This License is geographically restricted to the Territory;

C. Licensee shall not use deceptive, misleading, or fraudulent marketing practices in connection with the sale or distribution of Products in association with the Marks;

D. Licensee shall, in all of Licensee's uses of the registered Marks in association with fuel, indicate clearly that those trademarks are registered with the U.S. Patent and Trademark Office by using the "®" designation;

E. Licensee shall, before the use of any proposed design incorporating the Marks, submit that design to the CLEAN FUELS for its prior written approval;

F. Licensee shall not interfere with the use of the Marks by CLEAN FUELS or any known member of CLEAN FUELS; and

G. CLEAN FUELS has the right at its own expense to inspect and review all Products created and distributed in connection with the Marks as provided in Section 4 above.

**13. INFRINGEMENTS.**

A. Licensee shall notify CLEAN FUELS within a reasonable time of learning of any infringement of the Marks. Licensee shall have the right, in its discretion, to institute and prosecute lawsuits against third persons for infringement of the rights licensed in this Agreement. In no event shall Licensee take any action to prevent or hinder CLEAN FUELS from protecting the Marks.

B. CLEAN FUELS may also institute and prosecute a lawsuit involving the Marks. Any lawsuit shall be prosecuted solely at the cost and expense of CLEAN FUELS and all sums recovered in any such lawsuits, whether by judgment, settlement, or otherwise, shall be retained by CLEAN FUELS.

C. Upon request of CLEAN FUELS, Licensee shall execute all papers, testify on all matters, and otherwise cooperate in every way necessary and desirable for the prosecution of any such lawsuit. CLEAN FUELS shall reimburse Licensee for the expenses incurred as a result of such cooperation.

**14. INDEMNITY.** A. Licensee agrees to defend, indemnify, and hold CLEAN FUELS and its officers, directors, and employees harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred as a result of any claims of third-parties against CLEAN FUELS based on Licensee's breach of any representations, warranties or obligations contained herein or as a result of any of Licensee's actions or inactions relating to this Agreement. B. CLEAN FUELS agrees to defend, indemnify, and hold Licensee and its officers, directors, and employees harmless against all costs, expenses, and losses (including reasonable attorney fees and costs) incurred as a result of any claims of third-parties against Licensee based on use of the Marks in accordance with this Agreement constituting, in itself, an infringement of any third-party intellectual property rights.

**15. CONFIDENTIALITY and NON-DISPARAGEMENT.**

A. Each Party agrees to maintain the confidentiality of all non-public information or documentation provided by the other Party or created pursuant to this Agreement. All notices, responses, tests, inspections, conclusions and other materials relating to any audit, inquiry or enforcement action shall be deemed non-public and confidential information which will not be disclosed by CLEAN FUELS to any third party, including but not limited to any Member of CLEAN FUELS, without Licensee's prior written permission. This provision does not apply to any information that is required to be disclosed pursuant to a statute, regulation or court order, or in any enforcement or other litigation between the parties, provided that any Party disclosing any information or documentation pursuant to this subsection shall seek to obtain confidentiality protection for such information or documentation.

B. Neither Party shall , at any time during the Term and thereafter, make any statement or representation, or otherwise communicate, directly or indirectly, in writing, orally, or otherwise, or take any action that may, directly or indirectly, disparage the other Party or any of its affiliates, members, or their respective officers, directors, employees, advisors, businesses, or reputations. Notwithstanding the foregoing, nothing in this Agreement shall

preclude either Party from making truthful statements that are required by applicable law, regulation, or legal process.

C. This provision shall survive termination or expiration of this Agreement.

**16. EQUITABLE RELIEF.** Licensee recognizes and acknowledges that a material breach by Licensee of this Agreement may cause CLEAN FUELS irreparable damage that cannot be readily remedied in monetary damages in an action at law, and may, in addition thereto, constitute an infringement of the Marks. In the event of any default or breach by Licensee that could result in irreparable harm to CLEAN FUELS or cause some loss or dilution of Clean Fuels' goodwill, reputation, or rights in the Marks, CLEAN FUELS shall be entitled to seek immediate injunctive relief to prevent such irreparable harm, loss, or dilution in addition to any other remedies available.

**17. JURISDICTION/DISPUTES.** This Agreement shall be governed by the laws of the State of Iowa with jurisdiction and venue being in Polk County, Iowa. The Parties all consent to the jurisdiction of such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defenses otherwise available to them.

**18. ASSIGNMENT.** The License granted hereunder is personal to Licensee and shall not be assigned by any act of Licensee or by operation of law unless in connection with a transfer of substantially all of the assets of Licensee or with the consent of CLEAN FUELS. CLEAN FUELS will notify Licensee in advance of any assignment of its rights and obligations under this Agreement.

**19. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and supersedes all prior understandings, agreements, discussions, or representations, whether written or oral, with respect to such subject matter. This Agreement cannot be varied, modified, waived, or amended except in a writing executed by both Parties to this Agreement. Each Party to this Agreement acknowledges that it has not executed it in reliance on any promise, representation, inducement, or warranty that is not contained herein.

**20. WAIVER.** No term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. A waiver by either of the Parties of any of the covenants, conditions, or agreements to be performed by the other hereunder shall not be construed to be a waiver of any succeeding breach thereof. All remedies provided for in this Agreement shall be cumulative, and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity or otherwise.

**21. NO AGENCY.** Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise between the Parties.

**22. SEVERABILITY.** If any provision of this Agreement is held invalid, void, or unenforceable under any applicable statute or rule of law, it shall to that extent be deemed omitted, and the balance of this Agreement shall be enforceable in accordance with its terms.

**23. HEADINGS NOT CONTROLLING.** The headings in this Agreement are for reference purposes only and shall not be construed as a part of this Agreement.



**24. CONSTRUCTION.** No provision of this Agreement shall be construed in favor of or against any Party on the ground that such Party or its counsel drafted the provision. Any remedies provided for herein are not exclusive of any other lawful remedies that may be available to either Party. This Agreement shall at all times be construed so as to carry out the purposes stated herein.

**25. SURVIVAL.** In the event this Agreement is terminated, the confidentiality provisions provided for hereunder shall survive and continue in full force and effect according to their terms.

**26. COUNTERPARTS.** This Agreement may be signed and delivered by electronic means and may be executed in several counterparts, all of which when taken together, shall constitute one and the same instrument.

**IN WITNESS WHEREOF,** the Parties hereto have executed this Agreement as of the day and year first above written.

*PLEASE PRINT CLEARLY*

For CLEAN FUELS:

For Licensee:

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

EXHIBIT A  
BioMarks













Exhibit B





**BIOHEAT<sup>®</sup>**

**THE EVOLUTION OF OILHEAT<sup>®</sup>**









## Exhibit "C" - Trademark Usage Manual

### PROPER USE OF CLEAN FUELS ALLIANCE AMERICA TRADEMARKS

Trademark rights are extremely valuable, but require constant monitoring to prevent them from becoming generic and moving into the public domain. To maintain rights to the trademarks "THE EVOLUTION OF OILHEAT," and "AMERICA'S ADVANCED BIOFUEL," (collectively the "non-BioMarks") and the trademarks BIOHEAT, BIOHEAT PLUS, BIOHEAT SUPER PLUS, and the "BIOHEAT DESIGN MARK," the "BIOHEAT PLUS DESIGN MARK," and the "BIOHEAT SUPER PLUS DESIGN MARK," (collectively the "BioMarks") (the non-BioMarks and BioMarks being collectively referred to as the "Marks"), Clean Fuels Alliance America, and you as a Licensee of those Marks, must not only use the Marks correctly, but must ensure that all of your employees use the Marks correctly as well. Incorrect use of trademarks may lead to lessened protection or, in some cases, to an abandonment of all rights in the trademark. In numerous cases, the United States Supreme Court has held that lack of proper oversight by their owners have led several valuable trademarks to become lost to the public domain. *Bayer Co. v. United Drug Co.* (finding "aspirin" generic), *DuPont Cellophane Co. v. Waxed Materials Co.* (finding "cellophane" generic).

#### A. CONSEQUENCES OF IMPROPER USE

A trademark is a brand identifier that lets consumers know that a particular good or service comes from a particular source. If a trademark becomes synonymous, in the mind of the public, with the good or service it describes, it loses its value as a brand identifier. Once this happens, competitors are free to use the trademark on their own goods and services. Any activity by the owner that causes a trademark to lose its significance as an indication of origination of the good or service may cause the owner to be stripped of valuable rights.

Even extremely valuable, well-known trademarks can be lost through improper use. The following is just a partial list of famous trademarks that have lost exclusive rights through a failure of the trademark owner to properly monitor their usage:

Zipper	Nylon
Thermos	Raisin Bran
Aspirin	Kerosene
Corn Flakes	Yo-yo
Cellophane	Escalator

It is important that every employee and Licensee uses the Clean Fuels Marks correctly. For example, it is important that Licensee not define Bioheat® as being heating oil. Such usage generalizes the term in the eyes of consumers and invites competitors to adopt the Bioheat trademark for their own use. Luckily, proper use of the Marks can prevent valuable trademarks like the Bioheat trademark from becoming generic.

## **B. PREFERRED FORMS OF USE**

Consistency is the key to proper use of trademarks and service trademarks. The following is a list of some of the proper ways to use the Marks. A small effort to use the Marks consistently, according to a specific usage program, could prevent dishonest competitors from using the Marks in association with poor quality Products that would diminish the value of the Marks in the eyes of end users.

### **1. Always Use Word Trademarks As Adjectives.**

Never use the Word Marks as nouns. Always use the Word Marks along with the generic name of the good or service, to indicate to consumers that the Marks are indeed trademarks. Burger King® hamburgers are hamburgers that come from Burger King Corporation. McDonald's® hamburgers are hamburgers that come from McDonald's Corporation. "McDonald's® hamburgers" includes the federally registered trademark symbol "®" because the phrase describes the source of the hamburgers. "McDonald's Corporation" does not include the federally registered trademark symbol "®" because McDonald's in this context describes the company itself, not a good or service marketed by the company. To avoid losing rights to trademarks, always use the word trademarks along with the nouns they modify e.g. (Bioheat® fuel, etc.). The Logo (Design) trademarks do not need to have the generic nouns next to them, though, because it is clear from the Logo Format that they are Trademarks.

Improper use of a trademark by an owner, consumer, or competitor, such as using the trademark as a noun rather than an adjective, may lead to the trademark becoming generic and others being able to use the trademark with impunity. Never use, or allow anyone else to use, trademarks as the definition for goods or services not originating with trademark owner. A simple test to decide if the trademark is being used correctly is to remove the trademark from the sentence. If the sentence still makes sense with the trademark removed, the trademark is likely being used correctly.

Incorrect: Bioheat is a green fuel.

Is a green heating fuel.  
(Makes no sense with trademark removed)

Correct: Bioheat® fuel is a green alternative to wood pellets.

Fuel is a green alternative to wood pellets. (Makes sense with trademark removed)

### **2. Always Capitalize at Least the First Letter of Each Trademark.**

Failure to capitalize the Marks, or otherwise differentiate the trademark from surrounding words, may lead the general public to believe the Marks are simply descriptive words rather than trademarks. Over time such use could lead to the Marks becoming generic and rights in the Marks being lost. Capitalize at least the

first letter of the Marks. It is also acceptable to write the Marks using all capital letters.

### **3. Always Apply the Appropriate Notice to Trademarks.**

#### **a. Federally registered trademarks.**

"BIOHEAT" and "THE EVOLUTION OF OILHEAT" are federally registered trademarks. If a trademark is registered with the United States Patent and trademark Office, there are three choices for appropriately designating the trademark as being a federally registered trademark:

"Bioheat Registered in U.S. Patent and Trademark Office"

"Bioheat Reg. U.S. Pat & Tm. Off."

"Bioheat®"

The foregoing designations are for federally registered trademarks. If a trademark is only registered at the state level, the owner may not use any of the foregoing designations. While the ® is the most common designation, all of the foregoing designations are acceptable. Place federal registration notices at the upper right-hand corner of the trademark or, alternatively, a dagger or asterisk may be placed at the right hand corner and the registration notice may be placed at the bottom of the page as a footnote. Remember, for federally registered trademarks, DO use one of these three designations to inform the general public of the mark's federal registration. If a trademark does not have a federal registration, DO NOT use any of the foregoing three designations. Such a misrepresentation may lead the United States Patent and Trademark Office to refuse a later attempt to obtain a federal registration. More importantly, falsely marking a non-federally registered trademark can constitute fraud.

#### **b. Non-federally registered trademarks.**

For a trademark that has not yet received federal registration or for a federally registered trademark used in association with goods or services other than those identified in the federal registration its registered notice should still be given that the trademark is a trademark or service trademark. For instance, when using the Bioheat trademark in association with fuel, use the registered trademark symbol i.e. ("Bioheat® fuel"), but when using when using the Bioheat trademark in association with containers, use the general TM designation i.e. ("Bioheat™ containers"). The TM is used to inform the public simply that the owner views the term, as used, as a protectable trademark. Owners have at least three options for applying notice to a non-federally registered trademark. These options include placing the phrase "trademark of xyz Inc.," the word "trademark," or the letters TM in small capital letters near the upper right-hand portion of the trademark. Similarly, for a service trademark "service trademark of xyz Inc.," "service trademark," or SM in small capital letters may be used. While there is no requirement that the notice be given



at the right hand portion of the trademark, this is the most typical placement of such a notice, and it is where consumers and competitors most often look for notice of rights in a trademark.

4. **Distinguish Trademarks from Surrounding Words.** To protect a trademark or service trademark in a letter or communication, the Marks may be placed in all capital letters, italicized, or placed in a particularly distinguishing font to differentiate the trademark from the adjoining words. Under no circumstances should the Marks be used in lower case letters in the same font as the adjoining words. Such use could lead to the Marks becoming generic and rights in the trademark being lost.
5. **Use Trademarks Consistently.** Although variety is the spice of life, such is not the case in the use of trademarks. Use the Marks consistently, as designated by Clean Fuels Alliance America. Do not design your own logo or color scheme. Always spell the Marks the same way. Do not use trademarks in possessive or hyphenated in combination with other words. Do not use a plural trademark in the singular or a singular trademark in the plural. Consistently used trademarks are better able to differentiate goods from those of a competitor, thereby building a stronger, more valuable trademarks.
6. **Use Trademarks Appropriately in Internal Communications.** Oddly enough, many problems with trademarks becoming generic originate at home. Companies that frequently use trademarks in internal communications may be tempted to develop shorthand, wherein the product name is eliminated and the trademark is used alone, with the product name being assumed. As noted above, never refer to a product or service by the trademark alone. Always use the Marks with the name of the product or service.

## C. CONCLUSION.

In all speech, invoices, and written correspondence, use the Marks according to the aforementioned rules. Demand Licensee, competitors and media outlets use the Marks appropriately. Trademark protection starts at home. If you do not respect the Marks within your own organization, your License to use the Marks will be terminated by the trademark owner.

I understand and agree to abide by this Trademark Usage Manual.

Licensee

By \_\_\_\_\_

\_\_\_\_\_  
(type or print name)

Date: \_\_\_\_\_