

Propane Supply Agreement & Equipment Lease

Kludt Propane

This Propane Supply Agreement and (Equipment) Lease (“Agreement”) is between **Kludt Propane**, (the “Company”), Address: **1129 E. Pine St.** and the Customer identified below (“Customer”) and will be in effect for a minimum of one (1) year, or _____ years, whichever is greater, from the date it is signed by the Customer and from year-to-year thereafter or until terminated in accordance with paragraph 11 of this Agreement. Pricing will be _____ above our cost for the term of the Agreement. Service/Tank Fees will be _____ for the term of this Agreement.

Customer: _____	Business Phone: _____	Fax: _____	eMail: _____
Primary Contact: _____	Business Phone: _____	Cell: _____	Fax: _____
eMail: _____			
Installation/Delivery Address: _____	City: _____	State: _____	Zip: _____
Billing Address: _____	City: _____	State: _____	Zip: _____

TERMS & CONDITIONS

1. Equipment. The Company agrees to install and to lease to Customer at Customer’s delivery address the propane storage tank or cylinders and related equipment listed in Attachment B (the “Equipment”). The Company reserves the right to charge rent for the Equipment and Customer agrees to pay all Equipment rental charges. Customer shall be liable for all loss of and damage to the Equipment while in Customer’s possession, normal wear and tear excepted. Customer will promptly surrender to the Company all of the Equipment when this Agreement is terminated for any reason. The number of cylinders and tanks may be changed from time to time based on Customer’s needs and usage and Attachment B and this Agreement may be amended through the use of one or more Service/Work Orders, which shall become part of the Agreement. Any Equipment that is lost or damaged during the term or is not returned at the end of this Agreement will be billed to Customer at replacement cost. Customer authorizes the Company to replace its Equipment at any time with no changes in the obligations of this Agreement. If the Company replaces the Equipment with equipment of different capacity, the annual rental charges, if any, shall be adjusted to those that are currently being charged for the Equipment which is substituted. Upon Company’s request, Customer agrees to execute an Easement or other proof of Company’s ownership of the Equipment leased to it under this Agreement and authorizes Company to file same in the appropriate public records.

2. Propane Supply. Customer will purchase from the Company all of the propane Customer requires for use at Customer’s delivery address listed above, during the term of this Agreement. **FOR SAFETY AND OTHER REASONS, CUSTOMER AGREES THAT ONLY PROPANE SOLD BY THE COMPANY SHALL BE USED WITH THE EQUIPMENT.**

3. Equipment Installation. When installing the Equipment, the Company will perform a leak check of the Customer’s propane system. The Company will not place the Equipment in service until it is satisfied that the leak check has been successfully completed. The Company will not be liable for the damages that cannot be ascertained by conducting a leak check, or which arise as a result of conditions that may develop/exist after the leak check has been conducted. Customer will use only tanks, regulators, fittings, meters and other related equipment that is furnished by Company in connection with the use of the propane sold and Equipment leased to it by Company.

4. Fees, Pricing, Rates and Charges. *A) Propane Pricing* – Customer agrees to pay the Company’s applicable non-refundable prices in effect on the date that propane or Equipment is delivered or services are rendered. Customer acknowledges that the Company’s fees, rates, pricing and charges include its various procurement costs and may vary depending upon, among other things, the volume of propane purchased, customer clas-

sification, derivative activity to reduce price volatility, ownership of equipment, and competitive conditions. If Customer has a fixed price contract, Customer’s price for propane will not change during the term of this Agreement. If this Agreement does not contain a fixed price, Customer’s price for propane may move either up or down, as it does with other energy commodities. Similarly, if there is no agreement that governs Customer’s price for propane, Customer’s price may likewise move either up or down. For those Customers without a fixed price agreement, the Company reserves the right to change its prices without prior written notice to Customer. For our Area Index customers, from time to time the geographic areas and supply points that comprise the Company’s Area Index may change slightly. In some instances these changes may result in slight price increases or decreases, depending on the unique market circumstances. *B) Current Fees and Charges:* Because these fees and charges are subject to change, we suggest you regularly visit the Company website in order to view a list of our most current fees and charges, or you can call the local office servicing your account to speak with a Customer Relations Representative.

- **Fuel Recovery Fee** – This fee, which is assessed for propane deliveries and service calls, helps to offset the significant expenses incurred by the Company in fueling its fleet of commercial motor vehicles. This fee fluctuates on a monthly basis as the Company’s cost of fuel fluctuates. For current fuel recovery fee information, please contact your local Company office on a monthly basis or visit the Company’s website.

- **HazMat & Safety Compliance Fee** – This fee, which is assessed for propane deliveries and service calls, helps to offset a portion of the cost the Company must incur to comply with federal, state and local government regulations, including, but not limited to, hazardous materials, homeland security, emergency preparedness and workplace safety. It is also used to fund, among other things, vital employee safety training and inspections, cylinder re-qualification, and environmental compliance. **THE FEE IS NOT GOVERNMENT IMPOSED, NOR IS ANY PORTION OF IT PAID TO ANY GOVERNMENT AGENCY.** The current fee is \$9.59.

- **Late Charge** – This charge is assessed when a Customer does not pay his/her bill within the credit terms established and is designed to recover collection and related costs incurred by the Company. The current charge is 1½ percent of the average daily balance or a minimum charge of \$36, whichever is greater.

- **Pump-Out/Restocking Charge** – This charge defrays the cost associated with pumping out a tank that contains in excess of five percent, and returning the tank to the Company’s inventory. Customers can avoid this charge by continuing service with the Company until the supply of propane in the tank is less than five percent. The current charge is 35¢ per gallon of propane that is pumped out of the tank.

• **Special Trip Charge** – This charge is incurred by Customers who request immediate deliveries or non-emergency service after business hours or on weekends. This charge can vary greatly due to the distance involved and/or the time required to service this request and will be based on local labor rates which can be obtained from your local Company office.

• **Meter Service Fee** – This fee is incurred by Customers who are charged for their propane based on an amount of usage as measured by the Company's meter. This fee defrays the cost of meter reading, meter maintenance and related administrative costs. The current fee is \$9.99 per month.

• **Service Dispatch Charge** – This charge is to cover the costs associated with dispatching a service technician to a Customer's residence or other location to perform service work on Customer-owned equipment and appliances or to pick-up a Company-owned tank or cylinder. Customers should note that upon arrival at Customer's location, additional charges may be assessed depending upon the nature of the problem. The current Service Dispatch Charge is \$39.99 and is collected at the time the service or tank/cylinder pick-up is scheduled. This charge will not be credited toward service work performed. Please check with your local Company office regarding the availability of appliance repair service.

• **Returned Check Charge – \$33.00**

Note: The Fuel Recovery Fee & HazMat & Safety Compliance Fee does not apply to customers in Connecticut. The Company reserves the right to change its fees and charges from time to time without prior notice to Customer. By accepting delivery of propane or by paying any changed fee or charge, Customer will be deemed to have agreed to the changes. Customer agrees to pay any taxes, licenses, permit or inspection fees associated with the sale or use of propane and Equipment covered by this Agreement. Customer understands that Customer may obtain Company's current fees and charges by visiting the Company's website or by contacting the local Company office servicing Customer's account.

C) Price Dispute Resolution Procedure: Due to the potential pricing volatility in energy markets, every Customer has the right to discuss the price of propane delivered to their account, and the Company will make reasonable efforts to resolve pricing disputes through a standardized process. If Customer would like to discuss the price of their propane with the Company, Customer should initially contact his/her local office Customer Relations Representative. If Customer is not satisfied with the resolution after discussions with the local Customer Relations Representative, Customer may advance the issue to the local District Manager. If a resolution still does not occur, Customer may request the issue be escalated to the Area Director. Any unresolved dispute can be further escalated to the office of the Operations Vice President if the Customer deems necessary. The District office can provide contact information.

5. Payment Terms. Customer agrees to pay all fees, rates, and charges required by this Agreement within ten days after the invoice date or on the due date, whichever is later, to the location designated by Company. Where permitted by law, Customer agrees that Company may send Customer an invoice instead of a delivery ticket. If Customer fails to pay any fees, rates, or charges within 25 days after the invoice or due date, Company may, unless prohibited by law, add a monthly late charge of 1½ percent of the average daily balance or a late charge of \$36, whichever is greater. Company reserves the right to require Customer to pay for propane deliveries or services in advance or to post a cash deposit, which may be applied by Company at any time in whole or in part to the outstanding balance. If Customer receives a delivery ticket or service/work order and is billed-on-the-road, Customer agrees to pay within ten days of the delivery or service.

6. Title to Equipment. All Equipment leased by the Company to Customer will remain the property of the Company and shall not become a fixture or a part of Customer's real property. Customer will not, nor will it allow anyone other than Company, to pump-out or make any adjustments, connections or disconnections to the Equipment or remove the Equipment without written permission from the Company. Customer shall notify the Company immediately if the Equipment is damaged, appears defective, malfunctions or if Customer experiences any problems with the Equipment. Notwithstanding the foregoing, the propane line running from the tank to the Customer's premises shall become the property of the Customer upon installation and the Customer shall be billed by Company for any necessary repairs or work needed on that line.

7. Access to Equipment. Customer grants the Company the irrevocable right to enter Customer's premises at any time to deliver propane or to install, repair, service or remove any or all of the Equipment, or to perform any other services that the Company deems necessary under this Agreement,

without prior notice, judgment or other process of law. Customer agrees to provide safe, free and unimpeded access to the tank and related Equipment, including, but not limited to, access that is free of ice, snow, water, mud, debris and other hazards, as well as to provide a driveway that is sufficiently sturdy to withstand the weight of a filled propane truck. Customer acknowledges that failure to ensure safe and unimpeded access to the Equipment may cause an interruption in service. The Customer agrees that the Company shall have no obligation to contact Customer to request access to the Equipment, but instead may suspend service until Customer has provided access as required by this Agreement. Customer agrees to promptly surrender the Equipment when the Agreement is terminated for any reason.

8. Disclaimer of Warranties. TO THE EXTENT PERMITTED BY APPLICABLE STATE LAW, THE COMPANY DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY PROPANE, EQUIPMENT OR SERVICE NOW OR HEREAFTER SUPPLIED PURSUANT TO THIS AGREEMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

9. Limitation of Liability. UNDER NO CIRCUMSTANCES SHALL THE COMPANY BE LIABLE FOR INCIDENTAL CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND BUSINESS INTERRUPTION DAMAGES. THIS LIMITATION SHALL APPLY REGARDLESS OF WHETHER A CLAIM OR REMEDY IS SOUGHT IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE. THE COMPANY IS NOT LIABLE FOR ANY LOSS SUSTAINED BY CUSTOMER AS A RESULT OF THE TEMPORARY EXHAUSTION OF CUSTOMER'S SUPPLY OF PROPANE.

10. Indemnification. Both Company and Customer agree to indemnify, defend and hold the other harmless from and against any and all claims, liens, demands, suits, damages and liabilities for personal injuries and/or property damage, arising out of or caused by any negligent act or omission on the part of that party, its agents or employees.

11. Termination. Either party may terminate this Agreement at the expiration of the original term, or any anniversary thereof, by giving the other party at least sixty (60) days prior written notice. The Company may terminate this Agreement at any time and without prior notice or take such other action as may be permitted by law if Customer fails to satisfy any of the terms and conditions of this Agreement or if there are safety concerns that cannot be remedied after consultation between the parties. Customer agrees to pay Company's Service Dispatch and Pump-Out Charges at the termination of this Agreement. The charge to remove an underground tank can vary greatly and is affected by the size of the tank, access to the tank, soil conditions and other impediments near or around the tank, among other factors. Customer will be billed on an hourly basis for this work with local labor rates prevailing. The Company will invoice Customer for any third party excavation work performed in conjunction with the removal of the underground tank. The Company may at its option charge Customer for the value of the underground tank in lieu of physically removing the tank from the premises. At the termination of the Agreement, Customer agrees to promptly pay all outstanding installation, propane, rental, late charges and other amounts due to the Company. If the Company files suit against Customer to enforce any of the terms and conditions of this Agreement, or to recover possession of any of its Equipment, Customer shall pay the Company's reasonable costs, including all of the Company's attorneys' fees, to the maximum extent permitted by law. The foregoing shall be in addition to all other remedies that Company shall have either at law or in equity.

12. Meet Competition Clause. Under all non-fixed pricing agreements, Company has the right, from time to time, to revise the price(s) under this Agreement. If within thirty (30) days after the revision the Customer furnishes Company with a bona fide firm written offer from an established propane supplier to sell propane at the designated location in the same quantity under similar terms and conditions at a lower price than Company's revised price, Company may within ten (10) days either meet the lower price or rescind the price change. If Company fails to do so, Customer may, at its option, upon thirty (30) days written notice to Company, cancel and terminate this Agreement. If Company agrees to meet the lower price or revert to its previous price, Company has the right to extend the term of this Agreement until the end of the contract term specified in the firm written offer. If Customer elects to terminate this Agreement, Customer is responsible for all Equipment removal costs and Service Dispatch and Pump-Out Charges.

Excused Performance. The Company shall not be responsible for any delay or damages caused by events or circumstances beyond its reasonable control, including without limitation, acts of God, fires, storms, floods, wars, hostilities, terrorism, compliance with laws or regulations, the Company's inability to obtain propane from its customary suppliers, terminal, refinery or pipeline disruptions, allocation programs, lack of or inadequate transportation facilities, or other similar causes. Under any of these circumstances, the Company may in its sole discretion allocate propane and equipment among its customers.

13. Restoration of Property. Customer acknowledges that installing, servicing or removing propane service can result in disruption to the Customer's property and grounds and therefore Customer agrees to be responsible for all of the costs associated with the excavation and removal of equipment. Customer also releases Company from furnishing fill, resurfacing or restoring Customer's premises to its previous condition unless Company has been grossly or intentionally negligent.

14. Assignability. Customer may not assign this Agreement without the prior written consent of the Company. The Company may assign or pledge this Agreement as collateral without notice to or consent of Customer.

15. Training. Customer will properly train each of its employees, or any individual who handles propane or uses the Equipment as to how to safely fill containers, if applicable and use propane or propane equipment. Customer will not allow anyone to handle or use the Equipment unless and until that individual has been properly trained to do so. It is Customer's responsibility to provide Company with written notice if Customer, or any of its employees or agents, need additional training in order to comply with this provision. If Customer fails to comply with any portion of this provision, then Customer agrees it shall be solely responsible for any and all injuries or damages that result, and Customer will indemnify, defend and hold Company harmless from all claims, suits, demands and judgments, including those claims brought by Customer's employees or agents.

16. Modifying the Agreement. This Agreement is the final understanding between the Company and Customer and may not be modified orally. Any attempt by Customer to enforce a prior representation or warranty, whether it was written or oral shall be null and void. Company reserves the right to change the applicable terms and conditions (other than fees, rates and charges which may be changed without prior notice) at any time by giving Customer thirty (30) days prior written notice of the change. The notice of change may be in the form of a bill insert, email or other written notification. By accepting delivery of propane or by paying any fees, rates, surcharges or other charges after Customer has been given notice of changes, Customer will be deemed to have agreed to the changes.

17. Arbitration & Claims. Aside from credit or collection matters, Customer and Company agree that upon the request of either party, any dispute or controversy between the parties that in any way arises out of or relates to this Agreement or Company's provision of goods or services to Customer, will be decided by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Neither Customer nor Company shall be entitled to arbitrate joint or consolidated claims by or against other customers, or arbitrate any claim as a representative or member of a class or in or as part of a private attorney general capacity.

Judgment upon any arbitration award shall be final and binding on Customer and Company and may be entered in any court having jurisdiction. If a court of competent jurisdiction, or an arbitrator with authority to adjudicate the matter, should declare all or any part of this arbitration provision invalid or unenforceable, then the remainder of this arbitration provision shall be valid and enforceable to the fullest extent permitted by law. In the absence of this arbitration provision, you may have otherwise had an opportunity to litigate claims in court and/or to have claims decided by a jury. Within thirty days of receipt of this arbitration provision, Customer can elect to opt out of this provision (that is, exclude it from this Agreement) by sending a written notice to Company by certified mail at Box 965, Valley Forge, PA 19482, Attn: General Counsel stating that Customer wishes to opt out of this arbitration provision.

18. Enforceability. If any part of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement will continue to be valid and enforceable.

19. Notice. Any notice by Customer under this Agreement shall be sent by U.S. mail, postage prepaid, to the Company at the address of the Company shown on invoices received by Customer. Notice to Customer may be in the form of a bill insert, stand-alone mailing, email or other written notification.

20. Waiver. If the Company delays in exercising any of its rights under this Agreement, the Company will not be prevented from exercising its rights at a later date. The Company's waiver of any breach of this Agreement at any time shall not excuse future breaches by Customer.

21. Authority to Sign. The undersigned individuals warrant that each is a representative of his or her respective party and has been duly authorized and empowered to execute this Agreement on behalf of the party they represent.

22. Survival. All covenants, conditions and indemnification contained in this Agreement which may involve performance subsequent to any termination of this Agreement, or which cannot be ascertained or fully performed until after termination of this Agreement, shall survive.

23. Customer-Owned Equipment. For Customer-owned equipment, the following provisions do not apply:

- Paragraph 1, Equipment;
- Meter Service Fee in Paragraph 4.B;
- Pump-Out/Restocking Charge in Paragraph 4.B;
- Paragraph 6, Title to Equipment;
- Paragraphs 7 and 12, Access to Equipment, as it relates to removal of Equipment and related charges only; however, the remaining provisions of these paragraphs apply.

24. Warnings. Customer hereby acknowledges that Customer has read and understands the safety warnings it has received. Customer shall distribute a copy of the safety warnings to anyone who will be handling propane or Equipment. Company's safety warnings are also contained on its website and we strongly advise Customer to regularly visit our website to view those important safety warnings.

If this block is checked, this Propane Supply Agreement and Equipment lease is further subject to the Terms and Conditions set forth in Attachment(s), which is/are attached hereto and made part hereof.

DESCRIPTION OF LEASED EQUIPMENT

Tank/Cylinder: _____
Regulator: _____

Serial Number: _____
Other: _____

CUSTOMER

BY: _____
PRINT NAME: _____
DATE: _____

COMPANY: _____

BY: _____
TITLE: _____
DATE: _____

SAFETY NOTICE

Separate Attachment

For your safety, propane has a strong, unpleasant odor added so that propane leaks can be detected. You and each person using or handling propane must be able to recognize the smell of propane. Ask for a **Propane Safety Brochure** or MSDS to demonstrate the smell of propane. Always take action if you smell any foul odor.

CAN YOU SMELL IT?

It may be hard for some people to smell propane for any one or more of the following reasons:

- Colds, allergies, sinus congestion or another medical condition;
- The sense of smell is reduced due to the use of tobacco, alcohol, drugs, smoke, cooking odors and other strong odors that mask the smell of propane;
- With age, the sense of smell may be less sensitive;
- If the smell of propane is present for a period of time, “odor fatigue” may occur and a person no longer smells the propane odor; or
- The smell of propane may be in an area (basement or crawl space) where it is not detected by those in other areas of the building.

A phenomenon called “odor fade” may occur, the unintended reduction in the concentration of the odor of propane. Although rare, several situations can cause odor fade:

- Air, water or rust in a propane container;
- If an underground propane leak exists, the passage of propane through some soils; or
- Propane odor may stick to inside surfaces of propane piping and distribution systems or other materials.

▲ IF YOU SMELL GAS:

- **Do Not Enter An Area Where You Suspect a Gas Leak**
- **Do Not Try to Judge for Yourself the Level of Danger of a Gas Leak: All Gas Leaks Pose a Serious Threat.**
- **No Flames or Sparks:** Put out all smoking materials and other open flames. Do not use lights, appliances, telephones, including cell phones. Flames or sparks from these can trigger an explosion.
- **Leave the Area Immediately:** Get everyone out of the building or area where you suspect gas is leaking.
- **Shut-Off the Gas:** Turn off the main gas supply valve on the propane tank if it is safe to do so. Turn the valve to the right to close.
- **Report the Leak:** From a neighbor’s house or other nearby building away from the gas leak, call the Company right away. If you cannot reach the Company, call 911 or your local fire department.
- **Do Not Return to the Area or Building** until the Company or the local officials who have responded determine it is safe to do so.
- **Get Your System Checked:** Before you attempt to use any of your propane appliances, the Company or another qualified propane service technician must conduct a leak check.

▲ RUNNING OUT OF GAS:

DO NOT RUN OUT OF GAS, SERIOUS SAFETY HAZARDS, INCLUDING FIRE AND EXPLOSION, CAN RESULT.

- If an appliance valve or gas line is left open when the propane supply runs out, a leak could occur when the system is recharged with propane.
- Air and moisture could get inside the propane container resulting in the possibility of odor fade.
- If you run out of gas, your pilot lights will go out and can be extremely dangerous if not handled properly.
- **A LEAK CHECK IS REQUIRED.**
- **SET-UP REGULAR FORECASTED DELIVERIES.** Check the gauge on your tank and if the fuel level drops at or near 20%, call the Company.

▲ LIGHTING PILOT LIGHTS

It is strongly recommended that a qualified propane service technician light any pilot light that has gone out.

- A pilot light that repeatedly goes out or is difficult to light may be a signal that there is a problem with the appliance or the propane system. If this occurs do not try to fix the problem yourself. Contact a qualified propane service technician to evaluate the appliance.

▲ IF YOU LIGHT A PILOT YOURSELF, YOU ARE TAKING THE RISK OF STARTING A FIRE OR AN EXPLOSION. MANY SERIOUS INJURIES OCCUR WHEN PEOPLE ATTEMPT TO LIGHT PILOT LIGHTS. PROCEED WITH GREAT CAUTION.

- Follow the manufacturers’ instructions and warnings about the appliance.
- If the appliance is in a basement or closed room, thoroughly ventilate the area before lighting the pilot.
- **DO NOT** smoke or have any source of ignition in the area before lighting the pilot.
- **IF YOU SMELL GAS, DO NOT LIGHT THE PILOT.** Be especially alert for the smell of propane and sniff at the floor level before attempting to light the pilot. Do not try to light pilots in any area where other odors (such as musky or damp smells) may make it hard to detect the smell of a propane leak.
- **DO NOT** allow anyone to be in the area where you are lighting the pilot.
- **DO NOT** apply force or use tools on the pilot light or controls. This could damage the components and cause gas leakage.
- **DO NOT** attempt to let air out of the gas lines by opening a valve or fitting inside a building or enclosed space. You may release gas and not be able to smell it.
- **DO NOT** apply oil to a sticky knob or button on a gas control valve. It can cause the control valve to malfunction.
- **DO NOT** tamper with or use tools to operate gas controls.

▲ CARBON MONOXIDE: IMPROPERLY VENTED OR DEFECTIVE APPLIANCES CAN CAUSE POTENTIALLY FATAL CARBON MONOXIDE POISONING. HAVE YOUR SYSTEM PERIODICALLY INSPECTED BY A QUALIFIED SERVICE COMPANY.

▲ OTHER IMPORTANT SAFETY RULES

- **DO NOT** allow unqualified personnel to service your propane appliances or system.
- If any of your appliances has been flooded, shut off the gas immediately at the tank. **DO NOT** use the gas system until the wet or flooded appliances have been checked or serviced.
- Keep combustible products, like gasoline, kerosene or cleaners, in a separate room from propane appliances. Appliance pilot lights could ignite fumes from those combustibles.