

STANDARD TERMS AND CONDITIONS GOVERNING RETAIL PROPANE SALES AND RELATED SERVICES AND EQUIPMENT RENTAL

- 1. Applicability of Standard Terms and Conditions; Acceptance:** These Standard Terms and Conditions Governing Retail Sales, as the same may be modified, amended or supplemented by Florida Public Utilities Company (the "**Company**", "**we**", "**us**", "**our**" and words of similar import) from time to time (collectively, the "**Terms and Conditions**"), apply to all sales of goods and services by the Company to you, as a retail customer of the Company (the "**Customer**", "**you**", "**your**" and words of similar import). You shall be deemed to have accepted these Terms and Conditions if you (a) enter into an agreement, whether written or oral, with the Company for propane gas service (an "**Agreement**") which incorporates these Terms and Conditions, (b) request or accept propane gas service from the Company; (c) request or accept the delivery of or use any propane, tanks, equipment or other services from the Company, or (d) make full or partial payment for any goods or services provided by the Company. Your signature is not required for acceptance of these Terms and Conditions. The Company may modify, amend and supplement these Terms and Conditions at any time and from time to time as described in and in accordance with Section 22. To the extent any inconsistency or conflict exists between these Terms and Conditions and your Agreement, these Terms and Conditions will control to the extent of such inconsistency or conflict; provided that these Terms and Conditions do not replace, amend or eliminate your prior fixed propane pricing, exclusivity, or volume contract obligations, as applicable.

- 2. Propane Service, Supply and Delivery; Propane Charges and Metered Service:**

The Company offers two primary types of propane delivery:

Automatic Delivery Service – If you select Automatic Delivery Service, the Company shall anticipate when you will need a delivery by using Company's degree day computer system for whole house heat. You must promptly notify the Company if your usage changes for any reason.

Will Call Delivery Service – If you select Will Call Delivery Service, the Company will deliver propane only after you request a delivery. The Company requires five (5) business days' notice for will call delivery requests. You should call the office or notify the Company through the online customer portal to request a delivery when your tank gauge is at 30% to meet this schedule. Weather and other factors may affect delivery times. Deliveries required before five (5) business days will be subject to a delivery fee. Deliveries of less than 50% of Customer's tank capacity, whether at the direction of Customer or due to any other reason caused by or attributable to Customer, will be subject to a short fill fee and/or rate changes. Automatic Delivery Service Customers will take precedence over Will Call Delivery Service Customers in periods when propane supply is limited.

Deliveries requested after-hours, on weekends, or on holidays are subject to additional delivery charges.

Under certain circumstances, the Company may also agree to provide propane service on a single delivery "load to load" basis. In such event, the Company will deliver propane only after receiving and accepting a Customer request. Such delivery will be subject to pricing and other terms and conditions as the Customer and the Company may agree with respect to each delivery. The provisions set forth in these Terms and Conditions or your Agreement related to pricing, exclusivity, or Term (as defined in Section 3) shall not be applicable to "load to load" customers.

Unless you and the Company otherwise agree in writing, the charge for propane sold to you will be calculated based on the current price charged by the Company at the time of delivery/meter read for the applicable category of customer/service (i.e., Automatic Delivery Service, Will-Call Delivery Service, etc.). This price is set in the Company's discretion and includes, among other things, the Company's costs to procure the propane, and freight, transportation and storage costs. Your price may vary depending on the volume of propane you purchase, your customer/service classification, propane tank ownership, and competitive conditions. Prices change frequently and without prior notice. For non-metered gas service, the Company may charge you based on the volume of gas delivered to you or the amount of gas consumed annually. If you have metered gas service, the Company reserves the right to charge you based on estimated gas usage and then later take an actual reading, after which: (a) you will receive a credit if your estimated billed usage amount exceeded the actual usage amount or (b) you will be charged an additional amount if your actual usage amount exceeded the estimated amount. In addition, metered Customers agree to pay a non-refundable hook up charge plus, if required by the Company, a prepayment for services in an amount determined by the Company.

The Company may choose not to deliver propane or perform services if, in its sole discretion, it believes that doing so will pose an unnecessary risk of injury or harm to you, its employees, or the public. You agree that the Company may lock off your equipment, the Leased Equipment (as defined in Section 5), or suspend service if the Company believes an unsafe condition exists.

- 3. Service Term; Exclusivity:** Your term is the period of time for which you have agreed to maintain propane service with the Company. If you did not sign a written Agreement which includes express provisions setting forth the term of your service, your term will be five (5) years from the date on which you began service with the Company (the "**Initial Term**") and, unless terminated by you or us as permitted hereunder or in your Agreement, will renew automatically for consecutive one-year periods thereafter (the "**Renewal Term**") unless you notify the Company at least ninety (90) days prior to the

expiration of the Initial Term or then current Renewal Term. As used herein, "**Term**" (a) shall have the meaning set forth in your written Agreement with the Company or (b) shall mean the Initial Term together with the Renewal Term if you do not have a written Agreement with the Company that contains express provisions setting forth the term of your service. Unless otherwise provided herein or in your Agreement with the Company, during the Term, you shall purchase from the Company, on an exclusive basis, your entire propane gas requirements for the property that is the subject of your Agreement or for which service is provided (the "**Property**").

- 4. Customer Supplied Equipment Maintenance and Repair:**

You represent and warrant that you own or control, and have the exclusive right to use, all propane tanks, regulators and other equipment that will be used in connection with the propane gas service to be provided by the Company at the service address (the "**Customer Supplied Equipment**"). You further represent and warrant that you have the right to enter into the Agreement and accept propane gas service from Company without the approval or consent of any other person or entity or you have received all such necessary approvals or consents.

You are solely responsible for the condition, maintenance and repair of the Customer Supplied Equipment. You shall protect, maintain and preserve the Customer Supplied Equipment in a good and safe condition. Regulations in many states impose requirements that propane tanks and related equipment be maintained in accordance with all applicable regulations, laws and legal requirements. You agree that all Customer Supplied Equipment will comply at all times with all applicable laws, regulations and legal requirements and that you will satisfy all maintenance, inspection and testing requirements with respect to the Customer Supplied Equipment including, without limitation, the requirement that the Cathodic Protection Inspection is completed as required by such laws, regulations and legal requirements. The Company has the right to refuse your request for a delivery until all requirements are fulfilled, including, without limitation, those set forth in National Fire Protection Association, Pamphlet 58. By accepting service from the Company, you warrant that the cathodic protection system required for underground propane tanks and gas lines has been properly installed, maintained in good working order and inspected. If the customer supplied tank or gas lines were installed after January 1, 2011, you warrant that they have met all requirements of the National Fire Protection Association, Pamphlet 58 regarding required periodic testing of the cathodic protection system installed on underground tanks and gas lines.

You shall notify the Company prior to causing or permitting any work to be performed on the Customer Supplied Equipment, including any adjustments, changes, modifications, connections or disconnections to be made with respect thereto, by any person other than the Company's employees, authorized agents, contractors or subcontractors. Additionally, you shall immediately notify the Company if you become aware of any damage to, or any unsafe or adverse condition related to, Customer Supplied Equipment, or if you disconnect or change the propane system or add or remove appliances or permit anyone else to do so. In any of the foregoing cases, the Company may, at its option, conduct a gas safety check of the Customer Supplied Equipment prior to continuing service. You agree to pay the charge for the gas safety check.

You shall, at your expense, defend, indemnify and hold harmless the Company Indemnitees (as defined in Section 18) against Losses (as defined in Section 18) directly or indirectly arising out of or related to the Customer Supplied Equipment, including without limitation, the use, maintenance, repair, or replacement thereof, including any alleged violation of any federal, state or local law, statute, rule, regulation, ordinance or common law relating to the Customer Supplied Equipment in any way.

- 5. Company Owned Equipment Lease or Loan; Fees and Charges; Minimum Purchase of Propane:**

The Company may lease or loan propane storage tanks or cylinders (each, a "**Tank**"), propane meters, regulators and/or other related equipment, or any of the foregoing (collectively, "**Leased Equipment**," including in cases in which such equipment was loaned) to you in connection with service. In the interest of safety, you will not allow anyone to make any adjustments, connections or disconnections to the Leased Equipment or remove or pump-out the Leased Equipment without the Company's written consent. You will notify the Company immediately if you suspect that Leased Equipment is damaged, malfunctions or if you experience any problems. You agree that if the residence at the service address is sold, you will notify the Company at least thirty (30) days in advance and will inform the buyer that Leased Equipment is owned by the Company. Only propane sold by the Company will be used with the Leased Equipment and you agree not to allow the Tank to be filled by any party other than the Company so long as the Tank is owned by the Company. The Leased Equipment will at all times remain the property of the Company and will not become a fixture or a part of any real property.

APPLICABLE TO DELAWARE CUSTOMERS ONLY: If you wish to change propane suppliers after your Agreement has been in effect for one year or more, you may designate an alternate service provider (a "**Designated Provider**") by giving the Company written notice thirty (30) days prior to the date of your desired transfer. Upon receiving your written notice, and a signed liability waiver and release of all liability arising out of or relating to the sale of, installation of, service of or provision of fuel for the Leased Equipment from the Designated Provider, the Company will sell the Leased Equipment to the Designated Provider for no more than the actual cost of the Leased Equipment at the time of sale plus installation costs incurred at the time of installation.

If we lease you Leased Equipment, you agree to pay rent on the Leased Equipment while it is installed at your service address. The amount of rent can vary depending on, among other things, the size of the Tank, the location of the residence, and your annual usage. Please contact your local office if you have questions about the Tank rental that is applicable to you. There may also be an installation charge to install or replace the Tank and/or other Leased Equipment that can vary based upon service and equipment needed, an equipment maintenance fee, and an equipment deposit.

If the Company leases or loans Leased Equipment to you, you agree to purchase from the Company during each twelve (12) month period an amount of propane equal to or greater than one and one-half (1 ½) times the water capacity of the Tank. If you fail to purchase the minimum quantity during any twelve (12) month period, the Company shall have the right to enter upon your Property and substitute a Tank of lesser capacity at the then applicable equipment fee, charge a minimum use, tank rental or other fee (or increase any applicable tank rental fee, if applicable), or terminate the equipment lease or loan by giving five (5) days' notice.

If you have a Company propane meter installed on any Leased Equipment, you will be billed for your propane usage; however, Company reserves the right to bill you based on an estimated usage amount, and then later take an actual reading and reconcile your account as provided in Section 2. A monthly Customer Charge as described in Section 6 is applied to customers who have meters.

If you have a leased or loaned Tank or other Leased Equipment, **you are responsible for all charges and costs of removing the Tank and other Leased Equipment, including excavation necessary to remove an underground Tank and the cost of dirt or other material to fill the hole once the Tank is removed, whether upon the termination of your service or at any other time**, and the Company is not responsible for resurfacing, landscaping or restoring your property to its previous condition upon removal. You will be billed on an hourly basis for this work with local labor rates prevailing, unless other arrangements are provided. The charge to remove a leased or loaned Tank can vary greatly and is affected by numerous factors, including the size and access to the Tank, whether the Tank is aboveground or underground, soil conditions and other impediments. At its option, the Company may elect to not remove a leased or loaned Tank from the Property, in which event such Tank shall become the property of the Property owner, and may, in such event, charge you for the value of such leased or loaned Tank. In addition, if Leased Equipment has been provided to you and you terminate your service with the Company prior to the end of the Initial Term, the Company will charge you an early termination fee as set forth in Section 6. By accepting the leased or loaned Tank or other Leased Equipment, you consent to the foregoing.

You agree to promptly surrender all Leased Equipment to the Company upon termination of service for any reason.

6. **Miscellaneous Fees and Charges:** In addition to amounts set forth in your Agreement or otherwise specified in these Terms and Conditions, the price you will be charged for propane, and rental charges for Leased Equipment if provided in your Agreement or otherwise if applicable, the Company may assess you other fees and charges depending on the services requested or required, matters associated with your account, or otherwise. The fees and charges set forth below are the most frequently assessed, but other fees and charges may apply. **NONE OF THESE CHARGES REPRESENT A TAX, FEE OR OTHER AMOUNT PAID TO OR IMPOSED BY ANY GOVERNMENTAL AUTHORITY AND THE COMPANY RETAINS ALL OF THE AMOUNTS PAID FOR SUCH CHARGES. EXCEPT FOR ANY ESTIMATE PROVIDED, OR AS OTHERWISE STATED, HEREIN, THE COMPANY HAS NOT SPECIFICALLY QUANTIFIED THE RELATIONSHIP BETWEEN THE CHARGES AND THE ACTUAL COSTS ASSOCIATED WITH THE CHARGES, WHICH CAN VARY BY PRODUCT, SERVICE, TIME AND PLACE, AMONG OTHER THINGS. THE COMPANY RESERVES THE RIGHT TO CHANGE ITS FEES, RATES AND CHARGES WITHOUT PRIOR NOTICE.**

A service turn-on charge (for scheduled initial or seasonal service turn on) of up to \$160 during the weekday hours of 8:00 am to 4:30 pm, weekdays, holidays excluded ("**Regular Hours**"), and up to \$280 at any other time (which is sometimes referred to as "after hours").

An off-route fee of up to \$300 if a delivery request requires the Company to take the delivery vehicle out of a predetermined delivery route ("**Off Route Service**").

If you request, or the Company is required to make, a delivery outside of Regular Hours, an after-hours delivery fee of up to \$300.

A short-fill fee of up to \$80 if you request delivery, but the gas fill volume for such delivery is less than 50% of the tank's water capacity.

If aggregate gas deliveries to you for the year are not at least one and one-half (1 ½) times the water capacity of your Tank, an annual minimum use charge of up to \$1.50 multiplied by the Tank's water capacity (in addition to Tank rental fees, if any, payable under your Agreement or otherwise).

A fuel surcharge fee that will vary based upon on-road fuel costs.

A hazardous materials fee of up to \$15.00 per delivery of propane gas and other itemized charges for the handling of hazardous materials and for compliance with laws and regulations concerning hazardous materials.

An annual account dormancy fee of up to \$100 if your account has a credit balance but no gas charges in the preceding twelve (12) months.

A hook up charge of up to \$150 and a monthly Customer Charge of up to \$65 for Customers who have meters.

A pump out/restocking fee, which may be a fee of up to \$150 per man hour to perform the work (including trip time) or a variable fee of up to \$1.00 per gallon of gas removed, whichever is higher.

Propane recovery costs and charges as described in Section 7.

A disconnect charge of up to \$150 and a reconnect charge of up to \$160 for service which was disconnected as a result of safety concerns or your failure to timely pay your bill.

A service charge for returned checks equal to the lesser of \$35 or the maximum amount allowed by applicable state law per occurrence for each payment returned by the bank for insufficient funds or otherwise.

A credit card, direct debit or ACH convenience fee of up to 3% of the payment amount or the maximum permitted by applicable law for any non-cash or non-check payment transaction.

Finance charges as set forth in Section 7.

A leak check charge in any case in which you request a leak check or a leak check is required by the Company or by applicable law, regulation or code. Leak checks are required, among other times, when a gas runout occurs, the gas has been turned off for any reason, if there has been an interruption of gas service, or if a leak in the system is suspected or reported. Leak check charges may be up to \$150 per man hour for on-route service during Regular Hours, and \$275 per man hour at any other time or for Off Route Service.

A gas safety check charge in any case in which you request a gas safety check or a gas safety check is required by the Company or by applicable law, regulation or code. Gas safety checks are required, among other times, prior to the commencement of new service for you or if there are any changes to the propane gas system (including when new piping is installed), Customer Supplied Equipment or Leased Equipment. Gas safety check charges may be up to \$150 per man hour for on-route service during Regular Hours, and \$275 per man hour at any other time or for Off Route Service.

A Leased Equipment or Tank installation fee as described in Section 5.

If Leased Equipment has been provided to you and you terminate your service with the Company prior to the end of the Initial Term, an early termination fee in the amount of \$4.00 multiplied by the water capacity of the tank(s) located at your Property being serviced by the Company based on the number of full or partial months remaining in the Initial Term, which will be imposed if you terminate your service prior to the end of the Initial Term. As an example only, if you have a 500 gallon (water capacity) tank and your Initial Term is five years (60 months), but you terminate your service with 24 months left in the Initial Term, you will be charged an early termination fee of \$800 (\$4.00 x 500 x 24/60). The amount determined by the foregoing formula is a reasonable estimate of the sum of (i) lost revenue to the Company plus (ii) tank installation costs and permitting and expenses associated with gas lines, and regulating equipment expense.

Tank and Leased Equipment removal charges as described in Section 5.

A trip charge of up to \$65 for any service call other than for the sole purpose of delivering propane gas, including calls to perform leak checks or gas safety checks.

Other charges for shipping, handling, and delivery of propane gas and related goods.

7. **Payment Terms; Finance Charges:**

If you have received credit terms from the Company, you will be invoiced after propane is delivered or services are rendered, unless the Company has agreed to different payment terms in writing. You agree to pay the invoiced amount on or before the due date set forth on the invoice. If you dispute an invoice, you must contact your local office within sixty (60) days after receipt of the invoice.

If you fail to pay all amounts owed to the Company when due, the Company may, unless prohibited by law, assess a finance charge in the amount of 1.5% of the amount remaining unpaid on and after the 30th day after invoice date or \$5.00, whichever is greater, per month (or the maximum allowed by law if less). Ownership for propane or goods is not transferred by the Company to you until all invoices are paid. If your account has a past due balance, you may experience an interruption of service and the Company may, after providing notice to you, suspend and not schedule future service, disconnect or place a lock on Leased Equipment and/or recover propane for which payment has not been made. You will be responsible for all costs to recover such propane and other charges associated therewith. If the Company suspends service or disconnects or places a lock on Leased Equipment, all amounts outstanding (including any applicable reconnect and other charges and a gas safety check fee) must be paid in full before service will be restored.

The Company may at any time require you to pay for propane deliveries or services in advance, to post a cash prepayment, or to provide other forms of credit enhancement. The Company may apply any amounts it holds from you, whether in the form of a prepayment or otherwise, at any time in whole or in part against the outstanding balance.

8. **Taxes:** You are responsible for and agree to pay all personal property, income, intangible, environmental or other taxes, assessments or similar charges that may be levied by any governing authority, whether federal, state, local, or other, on any Tank, Leased Equipment or other equipment located on your Property, the provision of propane gas service to, or the use of propane gas by you, or any other goods and services the Company provides to you.
9. **Credit Application:** You shall maintain an approved credit application on file with the Company during the term of your Agreement.
10. **Access to Tank and Leased Equipment; Risk of Damage to Customer's Property:** You hereby grant the Company the irrevocable right, at all reasonable hours, to enter upon your Property at any time without prior notice for any purpose connected with (i) the delivery of propane by the Company to you; (ii) the servicing, maintenance, repair, locking, removal or other actions associated with the Tank and any Leased Equipment or any other equipment to be serviced by the Company; or (iii) the exercise of any rights secured by or the performance of any obligations imposed by your Agreement or these Terms and Conditions. You shall maintain your Property in a safe and unobstructed condition, including, but not limited to, being free of ice, snow, water and other hazards, and shall not at any time take any action to impede or inhibit the Company's access to your Property. You will mark and identify the location of septic systems, leach pits, underground ponds and waterways, and similar underground features. Additionally, in the event that any Company employee, agent, contractor or subcontractor is injured while on your Property, you shall defend, indemnify and hold harmless the Company Indemnitees against Losses directly or indirectly arising therefrom or related thereto in accordance with Section 18 of these Terms and Conditions unless such injury is caused by the negligence of such employee, agent, contractor, subcontractor or the Company. In the event that you fail to provide safe and unobstructed access onto your Property for services performed by the Company, including without limitation services performed under this Section 10, you shall defend, indemnify and hold harmless the Company Indemnitees against Losses directly or indirectly arising therefrom or related thereto in accordance with Section 18 of these Terms and Conditions. Furthermore, you hereby waive any claims against the Company Indemnitees related to, and shall hold the Company Indemnitees harmless from, any damage caused to your Property (by way of example, without limitation, driveway, sidewalks, curbs, lawns, or septic system) while the Company or its employees, agents, contractors or subcontractors are present on your Property or providing propane gas services, including without limitation services related to this Section 10, even if such damage is caused by the Company or its employees, agents, contractors or subcontractors.
11. **Interruption of Service:** If the propane service to the Property is turned off or otherwise interrupted for any reason, you will not allow anyone other than a Company representative to turn the propane service back on. You acknowledge that an inspection of the propane system and equipment by Company personnel is required for safety reasons before turning the propane back on after service has been turned off or interrupted, and after any alteration or modification to the propane system/equipment has been made. Applicable charges may apply.
12. **Termination of Service:** The Company shall have the right to terminate service and its Agreement with you for any reason or no reason by giving you thirty (30) days' prior written notice. Further, the Company may terminate service and its Agreement with you, discontinue propane sales or the provision of services, disconnect or seal and "lock off" the Tank and Leased Equipment and exercise any other available remedies at law or in equity, immediately and without notice if you fail to make timely payment for any rental fees, propane purchases or other charges to the Company, or fail to abide by, or perform your obligations under, any terms of your Agreement with the Company. In order to terminate your service with the Company, you must give the Company thirty (30) days' prior written notice and pay any outstanding account balance and all other amounts due the Company. If Leased Equipment has been provided to you and you terminate your service with the Company prior to the end of the Initial Term, the Company will charge you an early termination fee as set forth in Section 6. Upon termination by either party, no credit will be given for any propane gas remaining in the Tank. Unless required by applicable law, the Company is under no obligation to repurchase propane from you or provide you any refund for unused propane under any circumstance. If the Company determines, in its sole discretion, to repurchase remaining propane from you, the repurchase price will be based on the lower of the price per gallon you paid or the Company's then current price per gallon at which propane is generally available for purchase by the Company from its wholesale suppliers as determined by the Company. For metered Customers to whom the Company has leased or loaned a Tank, all propane remaining in the tank at termination is the sole property of the Company and you will pay to the Company the value of the remaining propane gas determined by the Company's market price for gas on the day of termination. If Customer's account is delinquent, the Company may, at its option, remove any propane gas remaining in the Tank. You agree that no money will be refunded for any propane remaining in any removed or abandoned Tank nor for any fees paid by you in connection with any program offered by the Company. If any Tank at your Property is returned to Company with gas, it is understood that you abandoned the gas and any gas recovered will belong to the Company. In the event any account has a credit balance after termination and all fees have been applied, you must request a refund in writing to the Company. Furthermore, the Company shall not be liable, and you shall hold the Company harmless, for any damage caused to your Property (by way of example, without limitation, driveways, sidewalks, curbs, lawns or septic systems), even if caused by the Company, while

the Company is performing work or services related to or arising out of the termination of service, including without limitation, termination under this Section 12.

13. **Delay and Failure of Performance:** Any delay or failure of performance on the part of the Company shall be excused without liability if the delay or failure of performance results in whole or in part from, but not limited to, any of the following: accidents, weather conditions, acts of God, government regulation or changes in laws or regulations, fire, floods, pandemics or epidemics, labor disputes or disturbances, breakdowns or other failure of equipment, inadequate wholesale supplies of propane or the Company's inability to obtain propane or equipment from its suppliers, terminal, refinery, pipeline or transportation disruptions, wars, hostilities, acts of terrorism, or any other cause beyond the Company's reasonable control. Under any of these or similar circumstances, the Company may allocate propane and equipment among its customers in any manner that the Company deems reasonable. The Company will not be responsible for damages for failure to deliver propane to vacant properties, unattended properties, premises that are not readily accessible to the Company's employees or for properties in which usage/consumption is unpredictable. The Company shall not be held responsible for an interruption of propane service due to unpaid bills, mechanical failures, erratic propane usage (i.e.: gas logs, space heaters, pool heaters, heat pump back-up, vacant or non-primary residences), concerns regarding the safety of your Property or Customer Supplied Equipment, or limited propane gas supply availability or the Company's inability to obtain propane or equipment from its suppliers.
14. **Collection Costs and Attorneys' Fees:** In the event that the Company brings any action or proceeding arising out of or related to any agreement with you, the provision of propane gas service, any Tank or Leased Equipment, any other services provided by the Company to you, or any other matter between the Company and you, including without limitation any breach, enforcement, or interpretation of your Agreement or these Terms and Conditions, the Company shall be entitled to collect from you all costs and expenses incurred by the Company in connection therewith including, but not limited to, collection agency fees and attorneys' fees and court costs at all trial and appellate levels and in bankruptcy.
15. **Safety:**
Safety information has been or will be supplied in your Welcome Packet. If you did not receive the safety information, please contact your local service office and we will mail it to you. Additional safety information is provided at fuc.com/propane/safety/safety-basics/. We recommend you regularly visit this website to view such information and other important safety warnings.
For added safety, the Company recommends you purchase and install a propane detector. These can be found at many retail hardware and online stores.
An odorant is added to propane to provide a warning in the event of a leak. A hazardous situation exists whenever the smell of odorant is present, even if the smell is faint. Customers with Tanks on their Property should turn the valve on the Tank to the "Off" position if it is safe to do so. You are responsible for the Tanks(s) and any other equipment while they are located on your Property. If the smell of propane is detected, or if you suspect there is a gas leak or other failure of the system to properly operate, you agree to immediately evacuate the Property and immediately contact the Company or the public safety authorities (such as fire or police) via telephone from at least 100 yards away so that any potentially hazardous situation can be corrected.
You agree to bear the risk of loss or damage to driveways, sidewalks, curbs, lawns, septic systems and other property or improvements, and the costs of repair or restoration thereof, resulting from access and entry by the Company or any third party to assess and rectify any hazardous conditions or situations with respect to the propane system or otherwise.
16. **Warnings:** The Company will periodically provide you with warnings concerning the safe operation of a propane system. You agree to read the warnings, share the information with all other persons residing on the Property, and follow the warnings distributed by the Company. If you are a landlord, you agree to provide all safety information provided by the Company to each of your tenants. The Company will provide additional copies of the safety information upon request.
17. **No Representations or Warranties; Disclaimers of Warranties:** THE COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY PROPANE, TANK, CYLINDER, PROPANE METER, REGULATOR(S) AND/OR OTHER RELATED EQUIPMENT, WHETHER LEASED EQUIPMENT OR OTHERWISE, OR SERVICE PROVIDED BY THE COMPANY OR PERFORMED UNDER THESE TERMS AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU ACCEPT ALL PRODUCTS AND GOODS DELIVERED AS IS. YOU AGREE TO THE EXTENT ALLOWED BY LAW, ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE ARE DISCLAIMED AND EXCLUDED FROM AND SHALL NOT APPLY TO THE SALE OF ANY PROPANE, TO THE SALE/LEASE OR LOSS OF ANY TANK OR OTHER RELATED EQUIPMENT, INCLUDING ANY LEASED EQUIPMENT, OR THE PROVISION OF ANY SERVICES BY THE COMPANY. SOME STATES MAY NOT ALLOW THE EXCLUSION OF THESE IMPLIED WARRANTIES AND, IF YOUR PROPERTY IS IN ONE OF THESE STATES, THESE EXCLUSIONS MAY NOT APPLY TO YOU.

18. **Exclusive Remedy; LIMITATIONS OF LIABILITY; Indemnification:** You agree that to the extent allowed by law, your sole and exclusive remedy against the Company shall be for the replacement or repair of any defective items provided by the Company, and that no other remedy (including but not limited to any remedy for indirect, incidental, consequential, special, exemplary or punitive damages) shall be available to you. **UNDER NO CIRCUMSTANCES WILL THE COMPANY BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES. THIS LIMITATION APPLIES EVEN IF THE COMPANY HAS BEEN INFORMED OF THE LIKLIHOOD OF ANY SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION, INCLUDING WHETHER A CLAIM OR REMEDY IS SOUGHT IN CONTRACT, TORT OR OTHERWISE. THE COMPANY IS NOT LIABLE FOR ANY LOSS SUSTAINED BY YOU AS A RESULT OF THE EXHAUSTION OF YOUR PROPANE SUPPLY, INCLUDING WITHOUT LIMITATION, DAMAGE TO YOUR HOME OR PROPERTY RESULTING FROM WATER DAMAGE FROM FROZEN PIPES.** You shall, at your expense, defend, indemnify and hold harmless the Company, its affiliates, and each of their respective owners, directors, officers, employees, contractors, subcontractors, agents, representatives, attorneys, successors and assigns, and all persons and entities acting by, through, under or in concert with any of them (the "Company Indemnitees") from and against all losses, claims, demands, damages, liabilities, debts, obligations, suits, actions, causes of action, judgments, costs and expenses (including but not limited to attorney's fees and court costs), fines, penalties, and settlement payments (collectively, "**Losses**") directly or indirectly arising out of or connected with (a) services provided by the Company to you under an Agreement or these Terms and Conditions while on your Property; (b) your failure to safely control and maintain any tanks or equipment on your Property, including any Tank and Leased Equipment leased or loaned to you by the Company while it is in your possession, including but not limited to your failure to comply with Sections 4, 5, 10, 11, 15 or 16 of these Terms and Conditions; (c) the breach of any representation, warranty or covenant set forth in your Agreement or these Terms and Conditions; or (d) your failure, or the failure of your employees, agents, contractors or subcontractors to perform any obligation set forth in your Agreement, these Terms and Conditions, or any other document or agreement provided by you to the Company.
19. **Waiver:** The Company's failure to insist upon the strict performance of any provision of your Agreement or these Terms and Conditions shall not be construed as a waiver of its right to the performance or the future performance of such provision or of any other provisions in your Agreement or these Terms and Conditions, and your obligations with respect thereto shall continue in full force and effect.
20. **Severability:** The invalidity or unenforceability in whole or in part of any provision in your Agreement or these Terms and Conditions shall not affect the validity or enforceability of any other provision. No provision in your Agreement or these Terms and Conditions shall be interpreted or enforced in any manner which violates any federal, state or local law, regulation or ordinance. No charge or fee provided for in your Agreement or these Terms and Conditions shall exceed the maximum amount allowable by law for the applicable product, service, or charge.
21. **Entire Agreement:** The provisions of your Agreement and these Terms and Conditions contain the entire agreement between the parties related to the provision of goods, services and equipment by the Company to you.
22. **Amendment/Modification:** The provisions of your Agreement and these Terms and Conditions may not be amended, modified or supplemented, unless approved in writing by the Company or as otherwise set forth in these Terms and Conditions. The Company may modify, amend and supplement these Terms and Conditions at any time and from time to time in its sole and absolute discretion by providing you written notice of such modifications, amendments and supplements (other than gas prices, fees, rates, and charges which may be changed without prior notice). The notice may be in the form of a bill insert, email, or other written notification and may include the modifications, amendments and supplements or refer you to the Company's website where such modified, amended and supplemented Terms and Conditions may be posted or otherwise made available. Unless otherwise provided therein, the modified, amended and supplemented Terms and Conditions will take effect thirty (30) days after such notice. If the modified, amended, and supplemented Terms and Conditions are unacceptable to you, your sole recourse is to terminate your Agreement and service by notifying the Company within thirty (30) days after the foregoing notice to you of the modified, amended and supplemented Terms and Conditions. Failure to do so shall constitute your binding acceptance of and agreement to such Terms and Conditions. These Terms and Conditions may not be modified orally.
23. **Governing Law; JURY TRIAL WAIVER:** The governing law applicable to your Agreement and the services to be provided to you under such Agreement or these Terms and Conditions will be that of the State in which your Property is located without regard to conflicts of laws principles. **THE PARTIES AGREE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING OUT OF OR RELATING TO YOUR AGREEMENT OR ANY OTHER DOCUMENT OR AGREEMENT BETWEEN THE COMPANY AND YOU, THESE TERMS AND CONDITIONS, THE COMPANY'S SERVICES, OR ANY OTHER MATTER BETWEEN THE COMPANY AND YOU.**
24. **Interruption of Service:** The Company, while exercising reasonable diligence at all times to furnish services under your Agreement, these Terms and Conditions or otherwise, does not guarantee your continuous supply of propane, for any automatic delivery, will call delivery, or any other delivery or customer category, and will not be liable for damages for any interruption or deficiency in, or failure of you to have, the continuous use of any propane.
25. **Installation of Company Owned Equipment:** Installation of any Tank or Leased Equipment leased or loaned to you by the Company shall be made only when, in the sole discretion of the Company, the location of the Tank and Leased Equipment is, and will continue to be, easily and economically accessible to the Company for the servicing of such Tank and Leased Equipment.
26. **Replacement:** The Company may, at any time and without the need for your permission, substitute or replace any Tank or Leased Equipment with another Tank or other Leased Equipment with adequate capacity for Company to provide services to you.
27. **Customer's Consent to being Contacted:** By providing a telephone number or email address, now or in the future, you agree that the Company (and others on its behalf) may contact you at that email address by emailing you or at your telephone number via text message (whether manually or automatically dialed) and telephone call (whether manually or automatically dialed, and whether using a live, artificial, or prerecorded voice) regardless of whether you will incur charges. You further agree that such communications may include, without limitation, delivery reminders, delivery confirmations, past-due account notices, account notifications, and attempts to collect any debts from you. **YOU ACKNOWLEDGE AND AGREE THAT YOUR CONSENT TO SUCH COMMUNICATIONS IS A MATERIAL AND ESSENTIAL PART OF THIS AGREEMENT AND THAT YOU PROVIDED IT AS PART OF A BARGAINED-FOR EXCHANGE.**
28. **Automated Telephone Dialing System (ATDS):** An FCC ruling as of June 15, 2015 states you may opt out of ATDS contact for cell phones. The Company may contact you with important information about your account using ATDS. If the primary phone number listed with the Company is your cell phone, the option is available to opt out. To exercise the right to opt out, contact the local servicing office.
29. **Company NOTICE:** Any notice by you required or permitted under your Agreement or these Terms and Conditions shall be in writing and sent by U.S. mail, postage prepaid, to the Company at 22945 E. Piney Grove, Georgetown, DE 19947, Attn: Sharp Admin or emailed to propanecustomerservice@chpk.com. Notice by the Company may be sent in the form of a billing or invoice insert or by a stand-alone mailing, email, text message or other written notification.
30. **Assignment:** You may not assign your Agreement with the Company or any rights or obligations thereunder or otherwise related to the Tanks or Leased Equipment or other goods or services provided by the Company without the Company's written consent, which may be given or withheld in its sole discretion. The sale of your Property, whether voluntarily or involuntarily, shall be deemed a termination by you of your Agreement and the Company's services and you will be subject to all fees, charges and impositions due as provided by your Agreement or these Terms and Conditions applicable to termination. Upon the entry into a contract for the sale of your Property or service location, you shall provide the Company with written notice thereof at least thirty (30) days prior to settlement ("closing"). Such notice shall contain the name and address of the prospective purchaser.
31. **CUSTOMERS WITH RESIDENCES THAT ARE NOT OCCUPIED YEAR-ROUND: IF YOU HAVE CHOSEN AUTOMATIC DELIVERY, IT IS DIFFICULT TO FORECAST HOMES THAT ARE NOT OCCUPIED YEAR-ROUND AS YOUR USAGE PATTERNS CHANGE. IT IS YOUR RESPONSIBILITY TO MONITOR THE PROPANE SYSTEM ON YOUR PROPERTY YEAR-ROUND. THE COMPANY IS NOT LIABLE FOR DIRECT DAMAGES TO PERSONAL AND REAL PROPERTY (INCLUDING, BUT NOT LIMITED TO, DAMAGE RESULTING FROM FROZEN PIPES OR OTHER WATER DAMAGE) THAT OCCURS AS A RESULT OF THE EXHAUSTION OF PROPANE IN YOUR SYSTEM. THE COMPANY RECOMMENDS YOU PLACE A TANK MONITOR ON YOUR SYSTEM TO MONITOR THE AMOUNT OF PROPANE REMAINING IN YOUR TANK. YOU MUST PROVIDE COMPANY WITH AT LEAST FIVE (5) BUSINESS DAYS' ADVANCED NOTICE OF A NEED FOR A DELIVERY TO AVOID THE EXHAUSTION OF YOUR PROPANE SUPPLY.**
32. **Survival:** Sections 1, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 23, 27, 28 and 29 of these Terms and Conditions, and any provisions of your Agreement as expressly provided for therein, shall survive termination of your relationship with Company and your Agreement with the Company, which includes your permission for Company to contact you to collect any debts owed or regarding your return of Leased Equipment.