

AGREEMENT TERMS

This agreement (the "Agreement"), dated as of the date first referenced on the reverse side of this Agreement, is between Farm & Home Gas, Inc. db/a Diversified Energy (D.E.) and the customer ("Customer") whose name and address and installation premises (the "Premises") are also set forth on the reverse side of this Agreement.

1. **Agreement to buy and sell** - D.E. agrees to sell, and Customer agrees to purchase from D.E., all propane fuel ("Propane") required by Customer at the Premises, according to the terms of this Agreement. D.E. shall have the right in its sole discretion to allocate Propane among its customers in the event of a shortage.

2. **Installation and Title to Equipment** - D.E. agrees to install the equipment described on the reverse side of this Agreement (the "Equipment") on the Premises. D.E. may substitute or adjust the Equipment as necessary. Title to all the Equipment remains with D.E., but Customer shall be responsible for loss of loss at all times the Equipment is located on the Premises, except for loss caused by D.E.'s gross negligence or intentional misconduct.

3. **Price, Minimum Purchase, and Payment** -

a. **Price** - Customer shall pay D.E. for all Propane delivered to the above Premises in accordance with D.E.'s schedule of prices then in effect and applicable to Customer's class of usage and volume, plus applicable taxes. Initial prices are listed on the reverse side of this Agreement. Customer shall pay a non-refundable installation fee for the Equipment. D.E. may, in its discretion and at any time, also charge, and Customer shall pay, a security deposit as security for the performance of Customer's payment obligations and any damage to the Equipment for which Customer is responsible under this Agreement. If Customer is renting the Equipment from D.E., Customer shall also pay the rental fees in accordance with D.E.'s schedule of prices then in effect and applicable to the Equipment being rented. Initial rental fees are listed on the reverse side of this Agreement. Rental fees are subject to change due to increases in business-related costs to D.E., including but not limited to increases for fuel, equipment, materials, and labor, and Customer shall pay such increase in fees to continue the services provided under this Agreement. Customer shall pay on demand all tariffs and regulated fees that from time to time may be imposed by any governmental authority on the transactions under this Agreement.

b. **Minimum Purchase** - Customer shall purchase the minimum amount of Propane, described on the reverse side of this Agreement, each year that this Agreement remains in effect. D.E. reviews twelve (12)-month consumptions annually beginning around July 1st and ending around June 30th of each year. Should Customer's Propane consumption be less than the required minimum, D.E. may in its discretion charge Customer a minimum annual usage fee, which Customer shall pay. D.E. has the right to change the annual usage fee. If Customer requests that D.E. only partially fill the Equipment, D.E. may assess a delivery fee.

c. **Payment** - Customer shall pay all charges under this Agreement within ten (10) days after the invoice date. In the event D.E. does not receive payment within this time period, then D.E. may, in its discretion and without notice, undertake any action necessary and allowed under law to secure payment in full. For all late payments, Customer shall pay a late fee in the amount of one and a half percent (1.5 %) (or the highest percentage permitted by law, whichever is less) of the unpaid balance per month, or the highest amount permitted by law, whichever is less, accruing from the thirty-first (31st) day after the invoice date. Customer shall be liable for any collection or reasonable attorneys' fees that are incurred to collect any past due balance.

4. **Maintenance** - Customer shall not permit anyone other than D.E. to fill and service the Equipment during the term of this Agreement. At all times Customer shall grant D.E. the necessary access to the Equipment in order for D.E. to inspect, service, change or remove all or part of the Equipment. Customer agrees to maintain driveway surfaces to support weight of delivery trucks, and D.E. assumes no repair liability if driveway construction is inadequate.

5. **Change of Ownership of Premises** - Customer agrees to notify D.E. within five (5) days of any sale or change of title to the Premises.

6. **Termination and Default** - This Agreement may be terminated by either party upon ten (10) days prior written notice; provided however, that either party may immediately terminate this Agreement should there be a material default of this Agreement. Customer hereby grants D.E. the absolute right upon termination, to remove the Equipment without notice to Customer. It is further agreed that D.E. shall not be liable for any damage to the Premises occasioned by any removal of the Equipment, including the removal of underground tanks and piping, except to the extent caused by D.E.'s gross negligence or willful misconduct. Customer shall remain liable for any fees and other costs accrued prior to cancellation of this Agreement.

7. **Fuel from Other Entities**. If Customer acquires fuel other than from D.E. to fill the Equipment without prior written agreement with D.E., D.E. may immediately remove its Equipment without incurring liability to Customer, and Customer shall be liable for all fines, penalties, losses, damages, injuries, attorneys' fees, and other costs and liabilities ("Damages") related to such removal, except the extent caused by D.E.'s gross negligence or willful misconduct, and shall indemnify and hold D.E. harmless from such Damages incurred with respect to the Equipment and the fuel so acquired, including but not limited to claims related to personal injury or environmental contamination or damage.

8. **Force Majeure Interruption of Services** - D.E. and its affiliates, subsidiaries, or subcontractors shall not be liable to Customer or other parties for any failure under this Agreement due to fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to obtain parts or supplies, transportation, fuel shortages, acts or omissions of any common carrier, acts of any foreign government or cartel, acts or omissions of Customer or its guests, invitees, agents, or other third parties, or other causes beyond D.E.'s control whether or not similar to the foregoing.

9. **WARRANTY; LIMITATION OF LIABILITY** - D.E. **DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR SUITABILITY OF THE FUEL, SERVICES, OR EQUIPMENT PROVIDED UNDER THIS AGREEMENT. D.E.'S ENTIRE LIABILITY ARISING FROM OR RELATED TO ANY FAILURE TO PERFORM UNDER THIS AGREEMENT SHALL BE CUSTOMER'S ACTUAL, DIRECT DAMAGES AS MIGHT BE PROVABLE IN A COURT OF LAW, BUT NOT TO EXCEED THE AMOUNT PAID TO D.E. BY CUSTOMER FOR PROPANE DURING THE TWELVE (12) MONTHS PRIOR TO A CLAIM. IN NO EVENT SHALL D.E. BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES**

OR FOR LOST PROFITS, SAVINGS, OR REVENUES OF ANY KIND, WHETHER OR NOT D.E. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY TO THE EXTENT ALLOWED BY LAW (i) REGARDLESS OF THE FORM OF CLAIM OR ACTION, AND (ii) WHETHER OR NOT DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL D.E. BE LIABLE FOR ANY CLAIMS, DEMANDS, OR ACTIONS AGAINST CUSTOMER BY ANY OTHER PARTY, EXCEPT TO THE EXTENT CAUSED BY D.E.'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. IN NO EVENT SHALL D.E. BE LIABLE FOR DELAYS IN DELIVERY. CUSTOMER ACKNOWLEDGES THAT THE FOREGOING DISCLAIMERS AND LIMITATIONS ARE PART OF THE BASIS FOR D.E.'S ENTERING INTO THIS AGREEMENT WITH CUSTOMER.

10. **Environmental Damage** - Customer shall immediately notify D.E. of any actual or suspected spillage or leakage of Propane or other hazardous or potentially hazardous substances from or around the Equipment. Except as may be prevented by applicable law, Customer shall be solely responsible for all spillage or leakage of Propane, and contamination or damage to persons or property, except to the extent caused by D.E.'s gross negligence or willful misconduct.

11. **Unapproved Connections and Activities** - Customer shall not attach other equipment to or divert Propane from the Equipment or make any change to the Equipment without D.E.'s prior written approval. Customer shall not resell Propane or assign the Equipment to any third party.

12. **Indemnification** - Customer shall indemnify and hold harmless D.E., its agents, employees, officers, and directors from and against any and all Damages arising out of or in connection with (i) this Agreement or the performance of this Agreement; (ii) the acts or omissions, negligent or otherwise, of Customer or a subcontractor, employee, an agent, guest, invitee of Customer, or other third party; (iii) the unauthorized servicing of the Equipment; (iv) Customer-owned equipment; and (v) spillage or leakage of Propane or contamination or damage to persons or property, except to the extent caused by D.E.'s gross negligence or willful misconduct.

13. **Miscellaneous** -

a. **Taxes** - Customer shall be solely responsible for all taxes, including taxes for installation and service charges and all sales tax on Propane.

b. **Assignment** - Customer shall not assign this Agreement without the prior written consent of D.E.

c. **Notice** - Any notices required or permitted to be given under this Agreement shall be given in writing to Customer at the Premises, and to D.E. at the then current main office, delivered by reputable overnight courier.

d. **Limitation of Actions** - Any legal action brought by Customer against D.E. with respect to this Agreement must be within two (2) years after the cause of action arises.

e. **Dispute Resolution** - All legal actions and disputes under this Agreement shall be subject to North Carolina law without any reference to the laws of conflict, held in Wilmington, NC, and shall be determined by arbitration under the commercial rules of the American Arbitration Association by one arbitrator appointed by the American Arbitration Association, which decision shall be final and binding. The party bringing the dispute shall pay the arbitration fees. Notwithstanding the foregoing, D.E. may seek preliminary or temporary injunctive relief from any court of competent jurisdiction if D.E. deems it necessary to take such action to enforce obligations under this Agreement.

f. **Underground Tank Addendum** - If Customer is using an underground tank, Customer shall execute and be bound by the additional terms in the Underground Tank Addendum below.

g. **Contractor, Developer** - If Customer is a Contractor, Developer, or Realtor installing Equipment to be conveyed to a subsequent purchaser of the Premises, Customer shall execute and be bound by the additional terms in the Contractor, Developer, Realtor Addendum below.

UNDERGROUND TANK AGREEMENT ADDENDUM

Customer agrees that any underground storage tank installed by D.E. remains the property of D.E. and is subject to the terms of the Agreement as "Equipment." In the event this Agreement is terminated for any reason, Customer at Customer's option shall:

(a) Pay D.E. the full cost of removing the Equipment from Customer's property, including the cost of filling, repairing or landscaping, and any environmental clean up; or,

(b) Purchase D.E.'s Equipment in place at the then retail price of a new tank(s) of similar size and design; or, if D.E., in its discretion makes the choice under subparagraph (c) available to Customer,

(c) Purchase D.E.'s Equipment in place, in exchange for delivery to D.E., at a location designated by D.E., of a new underground storage tank(s) of similar size and design to replace the tank(s) Customer elects to retain.

If Customer elects (b) or (c) above, Customer shall execute an agreement to indemnify and hold D.E. harmless from all Damages arising out of or relating to the Equipment and the servicing and use of the Equipment after the transfer of the Equipment to Customer. Any Equipment transferred to Customer is provided "as is," "where is," "with all faults," and with no warranties or representations, express or implied, regarding the Equipment.

In every case, Customer shall indemnify and hold D.E. harmless from any Damages arising before and after transfer of the Equipment, including but not limited to, environmental liabilities or personal injury, except to the extent caused by D.E.'s gross negligence or willful misconduct.

Customer's failure to make an election within ten (10) days of termination shall constitute an election under (a) above.

CONTRACTOR, DEVELOPER, REALTOR ADDENDUM

Customer is building real estate on the Premises for resale and is engaging D.E. to install Equipment. Customer agrees to grant D.E. a security interest in the Equipment and complete all forms requested by D.E. to perfect such security interest. Customer agrees to require the next purchaser of the Premises to agree to be bound by the terms of this Agreement, or to require the purchaser to remove the Equipment at purchaser's expense and liability for return to D.E. Customer shall indemnify and hold D.E. harmless from and against all Damages arising out of or relating to this Agreement, Customer's relationship with the subsequent purchaser of the Premises, any zoning or other ordinances, regulations, statutory, or contractual requirements concerning the Premises.