

## Propane Customer Agreement

### K.B. Johnson Oil & Gas Company

P.O. Box 219 1709 N. Main St. Fuquay-Varina, NC 27526

919-552-5474 Office 919-552-5643 Fax

[www.kbjohnson.com](http://www.kbjohnson.com)

Customer Information: Name \_\_\_\_\_; Delivery address \_\_\_\_\_;  
Mailing address if different: \_\_\_\_\_; Telephone: \_\_\_\_\_;  
Credit Terms \_\_\_\_\_ Net 30 \_\_\_\_\_ Pre-Pay Only \_\_\_\_\_ Customer-Owned Tank \_\_\_\_\_ Yes\* \_\_\_\_\_ No

\*Customer-Owned Tanks are Exempt from any requirement to purchase propane exclusively from "Company"

1. Customer requests equipment rental and gas service from K.B. Johnson Oil & Gas Company (hereafter referred to as "Company"). Customer agrees to rent from Company the equipment described below, to purchase all of customer's propane gas requirements from Company, and to accept the terms and conditions of this agreement.
2. Equipment Rental: size of tank \_\_\_\_\_; serial # on tank \_\_\_\_\_; tank rental fee of \$ \_\_\_\_\_ per year will be due if minimum annual purchase of \_\_\_\_\_ gallons is not made and paid for each year. Customer acknowledges that Company is the owner of all equipment provided and is entitled to recover the equipment upon any breach of this agreement. Customer shall be liable for all personal property taxes assessed against the leased equipment, and also for damages to the leased equipment, normal wear and tear excepted.
3. Type of service: Keep full \_\_\_\_\_ or customer Will Call \_\_\_\_\_. "Keep full" means customer authorizes company to make deliveries from time to time to keep tank full; "Will Call" means customer authorizes delivery only upon customer's request. Delivery charge of \$100 per trip will apply for will call customers if same day delivery is requested during regular business hours. Delivery charge of \$125 per trip will apply for will call customers if same day delivery is requested after regular business hours and on Saturday or Sunday. Keep full customers (automatic delivery) will be subject to the same delivery charge schedule if regular deliveries are not possible due to credit hold or other situations beyond Company's control. Additionally, Customer will incur a \$100 "out of gas" service call to perform a mandatory "system leak check" following an "out of gas" condition as required by NFPA 54. Normal "will call" deliveries are performed within 3 business days following receipt of the order. Company must receive all "will call" orders by 3:00 pm (business day) to be considered for routing on the next business day.
4. A Security deposit of \$ \_\_\_\_\_ will be applied to all amounts due from customer in the event of any breach of this Agreement; Company shall provide a written statement to customer showing the application of the deposit to all charges.
5. Price: The propane price is the current prevailing price per gallon delivered for customer's usage, as provided on Company's price schedule, a copy of which is available at Company's office upon request. A metered ticket showing number of gallons delivered and price per gallon will be left at or mailed to customer's address as required by law.
6. Delivery: Customer authorizes delivery with or without customer present and authorizes Company to enter the property for deliveries; for maintenance, inspection and removal of Company equipment (without legal process); and for all other purposes related to this Agreement. Delivery is subject to availability of product, satisfactory condition of equipment, strikes and labor shortages, weather and other acts of God, embargoes, transportation contingencies, government orders or regulations, and any other condition or circumstance beyond Company's control.
7. Payment: Payment is due within 30 days of delivery (excludes pre-pay only); interest accrues at the rate of 1.5% per month (18% annual percentage rate) on the unpaid principal balance due. Customer shall additionally be liable for reasonable attorneys' fees and court costs in the event that debt collection is required for any amount past due. Customer shall be liable for all charges for returned checks as provided in G.S. 6-21.3 and G.S. 25-3-506. If customer fails to timely pay any amount due under this agreement, Company reserves the right, without terminating this agreement, to make no further deliveries, to adjust or disconnect its equipment to prevent further withdrawal from the tank, or to require cash on delivery.
8. Tank removal charges: In the event either party terminates this agreement with or without cause: (a) customer shall be liable for tank removal fee of \$85, (b) customer shall be entitled to a credit (or refund, if there are no other payments or charges due to Company after application of all charges and any security deposit) based on the gallons in the tank so removed at the propane price then in effect, as provided on Company's buy-back price schedule, a copy of which is available at Company's office upon request, or last purchase price (whichever is less) and (c) customer shall be liable for a restocking fee of 20% of the refund. This section DOES NOT apply to Customer-Owned Tanks.
9. Customer is obligated to: (a) purchase all propane requirements from Company (excludes customer-owned tanks); (b) notify Company of any apparent damage or defect to Company's or customer's equipment; (c) observe all safety codes and requirements; (d) notify Company prior to disconnecting or installing any propane appliances and for resumption of service after any interruption; (e) inspect and maintain customer's lines and appliances; (f) provide 30 days written notice to Company of any disconnection of service and service by a new supplier; (g) not remove or deface Company's identifying tag on tank; (h) not move, handle, disconnect or otherwise tamper with or damage Company's tank or equipment; (i) notify Company prior to moving to a new residence and be liable for continued service upon any failure to do so; (j) remove any impediment to Company's access to its tank and equipment for any purpose; (k) provide and maintain at customer's expense, piping, 2<sup>nd</sup> stage

regulator, and miscellaneous fittings suitable for connection to Company's 1<sup>st</sup> stage regulator and tank; (l) pay all licenses, permits, or inspection fees imposed for this transaction; (m) and to indemnify Company from and against any and all losses, damages or claims to persons or property arising out or relating to any customer's breach of any of the foregoing obligations.

10. The Company's non-exclusive remedies upon customer's breach include the right to: (a) make no further deliveries; (b) apply any security deposit to total amount due; (c) obtain immediate possession (without legal process) of its tanks and equipment; (d) and to charge a tank removal fee and restocking fee in accordance with this agreement.

11. Company will comply with all safety codes imposed by statute. Company warrants that it has good and marketable title to the propane delivered; Company makes no other warranties or representations of any kind, express or implied, including, without limitation, any warranty as to suitability or fitness for a particular use or purpose of the propane or equipment or facilities described above, or merchantability, and expressly disclaims and excludes all such warranties.

12. Termination. This Agreement will continue in effect until terminated. Either party may terminate this Agreement with or without cause by giving 30 days written notice to the other party. Company may terminate this Agreement immediately and without notice for any of the following causes: customer fails to timely pay any amount due, files a petition in bankruptcy, or otherwise breaches this Agreement; the minimum annual purchase requirements are not made; customer obtains propane from another supplier or fills tank with propane from another supplier; customer assigns or transfers this Agreement without prior consent or abandons or vacates the premises; customer refuses or obstructs delivery; or the premises upon which the equipment is located is sold or conveyed, or is the subject of any foreclosure proceedings, or is the subject of any sale pursuant to judicial process.

13. Amendment: This Agreement may be amended by Company upon written notice to customer or by posting written agreement on company website; provided that customer may reject such amendment by written notice to Company of termination of this Agreement given within 10 days of the notice of amendment.

14. Company shall not be liable for any loss or damage caused by or arising out of: (a) any service interruptions or Company's inability to make delivery due to labor strikes, acts of God, or shortage of propane, failure under this agreement due to fire, explosion, lightening, pest damage, power surges or failure, water, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, or any other condition or circumstance beyond Company's control; (b) Company's non-delivery due to customer's failure to pay or other breach of this agreement; (c) any interruption of service, filling of tank, or disconnect of service without prior notice to Company; (d) any defect in or damage to any line, equipment or appliances of customer; (e) any acts or omission of another supplier; (f) damage to customer's driveway or landscaping or any failure of customer to remove impediments to Company's installation and service of tank.

15. Miscellaneous: This agreement is severable such that the invalidity of any provision shall not affect the remaining provisions. Any failure or delay of Company's enforcement of this agreement shall not be deemed a waiver of any present rights or any subsequent breach by customer. This agreement is binding upon and shall inure to the benefit of customer's and Company's successors and assigns; except that it may not be assigned by customer without Company's prior written consent.

#### Underground Tank Agreement Addendum

Customer agrees that any underground storage tank (not purchased by customer) installed by Company remains the property of Company, 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 Company the full cost of removing the Equipment from the Customer's property, including the cost of filling, repairing or landscaping, and any environmental clean up; or
- (b) Purchase Company's equipment in place at the then retail price of a new tank(s) of similar size and design: or, if Company, in its discretion makes the choice under subparagraph (c) available to Customer.
- (c) Purchase Company's Equipment in place, in exchange for delivery to Company at a location designated by Company, of a new underground storage tank(s) if 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 Company harmless from all damages arising out of or relating to the Equipment and 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 Company 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 Company'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 Company to install Equipment. Customer agrees to grant Company a security interest in the Equipment and complete all forms requested by Company

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 Company. Customer shall indemnify and hold Company 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.

Check here \_\_\_ if Customer acknowledges receipt of propane safety brochures and materials from Company.

Understood and Accepted:

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

Customer signature

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

Customer signature

Company:

by: \_\_\_\_\_ date: \_\_\_\_\_

printed name: \_\_\_\_\_

Customer agrees to the terms of the Underground Tank Agreement Addendum on page 2 of this Agreement.

\_\_\_\_\_  
Customer Signature

: \_\_\_\_\_

Date

Customer agrees to the terms of the Contractor, Developer, Realtor Addendum on page 2 and 3 of this Agreement.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date