

Cherry Energy Formally Cherry Oil and Herring Gas

P.O. Box 1424, Kinston, NC 28503 (252) 523-3874 Office (252) 523-6153 Fax www.cherryenergy.com

Agreement for Propane Equipment Rental and Gas Supply

Customer Information: Name _____ Name _____

Delivery address _____

Mailing address if different: _____

Telephone: Home _____ Work _____ Mobile _____

Landlord's name, address, and telephone _____

Current supplier's name and address _____

1. Customer requests equipment rental and gas service from Cherry Energy (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 and one-time installation charges of \$ _____ 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 \$45.00 per trip will apply for will call customers if less than 100 gallons are delivered. Will call customers are subject to normal service call fees if service has to be performed due to customer running out of gas. Service call labor fees are as follows – During regular business hours \$65.00/hour (minimum 1 hour); After hours, Holidays, Weekends \$85.00/hour (one hour minimum).
4. If Customer is renting property 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 is due within net terms stated on invoice from date of service or delivery; interest accrues at the rate of 1.5% per month (18% annual percentage rate) on the unpaid balance due. Customer shall additionally be liable for a \$39 late payment/collection fee in the event that debt collection is required for any amount past due. Customer shall be liable for all returned check charges as shall be charged by the Company up to the maximum amount allowed by law. 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 remove or disconnect its equipment to prevent further withdrawal from the tank, or to require cash on delivery. In the event of non-payment under this Agreement, Company may employ an attorney to enforce Company's rights and remedies, and Customer agrees to pay to the holder reasonable attorneys fees not exceeding a sum equal to fifteen percent (15%) of the outstanding balance owing on this Agreement, plus all other reasonable expenses incurred by the Company in exercising any of the Company's rights and remedies upon non-payment.
8. Tank removal charges: In the event Company terminates this agreement for cause: (a) customer shall be liable for tank removal fee of \$65.00, (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 or last purchase price (whichever is less); and (c) customer shall be liable for a restocking fee based on the gallons in the tank and the going rate per gallon.
9. Customer is obligated to: (a) purchase all propane requirements from Company; (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, 2nd stage regulator, and miscellaneous fittings suitable for connection to Company's 1st 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; provided that customer may reject such amendment by written notice to Company of termination of this Agreement given within 10 day 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 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; or (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.

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

Understood and Accepted:

Customer Signature Date: _____

Company Representative Signature Date: _____

Customer Signature Date: _____

Company Representative Signature Date: _____