



TERMS AND CONDITIONS

These terms and conditions (these "T&Cs") govern all goods and services (the "Deliverables") sold or otherwise provided to a customer ("Customer"), as applicable, by SUPERIOR PLUS ENERGY SERVICES INC., a New York corporation, or by any of the Superior affiliates and/or under any of the trade names listed on Exhibit A (in each case "Superior").

1. Acceptance. These T&Cs are applicable to Customers who accept or request any Deliverables from Superior or who enters into an agreement or contract with Superior.

2. Deliverables. Deliverables may include propane supply services, heating oil supply services, other fuel products supply services, tank rental services, and/or propane equipment installation, maintenance, and/or repair services.

3. Term. Unless otherwise specified in a written contract between Customer and Superior, the term of the relationship between Customer and Superior will be three (3) years from the date on which the first Deliverables are provided (the "Initial Term") and will automatically renew for successive terms equal in length to the Initial Term (each an "Additional Term") unless terminated in accordance with Section 19. The Initial Term and each Additional Term are collectively the "Term". Either party may terminate the Term after the Initial Term upon thirty (30) days' prior written notice. During the Term Customer may not purchase or otherwise obtain Deliverables from any party other than Superior.

4. Methods of Delivery.

(a) *Automatic Delivery*: Superior will make deliveries periodically based on its forecasting factors (e.g., exterior temperatures, number and types of appliances installed, and prior usage history). To ensure accurate forecasting of automatic deliveries, Customers should notify Superior of any changes of appliances or usage.

(b) *Fixed Cycle*: Deliveries are based on a set delivery schedule. Fixed cycle deliveries may occur once per week, bi-weekly, once per month, etc.

(c) *Will-Call*: Superior will make deliveries only when Customer requests it. Requests for delivery should be made when the level of product in its storage tank or cylinder ("Tank") is at thirty percent (30%) to allow for sufficient time to schedule delivery. Scheduling a will-call order may take up to ten (10) business days. Weather and other unforeseen factors may affect delivery time.

(d) *Metered Propane*: If Superior installed or Customer owns a propane meter system, Superior will invoice based on actual propane usage.

5. Safety. Safety information has been supplied to Customer. If Customer would like an additional copy of any safety materials, it can visit: <https://www.superiorpluspropane.com/support/safety/> or contact Superior at (855) 804-3835. Customer should regularly visit <https://www.superiorpluspropane.com/support/safety/> to view important safety warnings and updates. If Customer smells propane or experiences any adverse propane conditions or safety-related matters, it should immediately evacuate the premises and contact emergency service personnel (e.g., by dialing 9-1-1). Customer should also contact (855) 804-3835. Customer should purchase an LP gas detector and a Carbon Monoxide detector.

6. Price. Deliverable prices are based on multiple variables, including market influences, freight, and transportation charges, annual volume usage, and other related factors. Superior may change the price of Deliverables without prior notice, and such changes are deemed to be accepted and agreed to upon Customer accepting delivery of the Deliverables or by Customer paying any invoice including such modified prices.

7. Leased Equipment.

(a) *Installation and Notification*: Superior may install and lease a Tank and related equipment (collectively, the "Leased Equipment") to Customer. Customer must notify Superior immediately if the Leased Equipment is damaged, appears defective, or malfunctions, or if it experiences any problems with the Leased Equipment.

(b) *Use:* Only Deliverables sold by Superior will be used with the Leased Equipment, and no party other than Superior employees or authorized representatives will make any adjustments, connections, or disconnections to the Leased Equipment or remove or pump-out the Tank without Superior's written permission. If Customer sells the location where the Leased Equipment is installed, Customer must notify Superior at least thirty (30) days in advance that the sale is taking place and will inform the buyer that the Leased Equipment is owned by Superior.

(c) *Operation:* Superior has the right of entry at all times upon the premises to remove, inspect, repair, or maintain the Leased Equipment. Customer must maintain access to the Leased Equipment and promptly notify Superior of any Leased Equipment defects.

(d) *Title:* Leased Equipment remains the sole property of Superior, and Customer shall neither have nor acquire any property rights therein except the right to use the Leased Equipment under these T&Cs. Customer shall not permit the creation of any lien, encumbrance, or security interest on the Leased Equipment.

(e) *Markings; Underground Leased Tanks:* At the time of installation, service, and removal of the Leased Equipment, Customer must mark or otherwise accurately identify the location of all underground systems that are not marked by the applicable state's "Call Before You Dig" program, including sprinkler lines, septic systems, leach pits, underground ponds, and similar underground features. Customer will be billed on an hourly basis for this work with local labor rates prevailing. The charge to remove an underground Tank can vary greatly and is affected by numerous factors, including the Tank size, access to the Tank, soil conditions, and other impediments. Superior may charge Customer for the value of the underground Tank in lieu of physically removing the Tank.

(f) *Restoration of Property:* Customer acknowledges that installing, servicing, or removing the Leased Equipment can result in disruption to Customer's property and grounds. Customer remains responsible for all of the costs associated with the excavation and removal of equipment, including underground equipment. Superior has no obligation to furnish, fill, resurface, or restore Customer's premises to its previous condition.

8. Fees and Charges. Superior may charge the following fees and charges, which may vary by service territory:

(a) *Hazardous Material Safety & Compliance Fee (also referred to as the "HazMat Fee"):* Assessed on every delivery and calculated to offset a portion of costs related to government-mandated compliance processes for the handling of hazardous materials, workplace safety, emergency preparedness, and environmental protection.

(b) *Delivery/Off Route Fee (Special Trip Charge):* Assessed when Customer manages its own delivery schedule for Deliverables and has failed to adequately monitor usage and volume remaining in its Tank and, as such, has allowed the Tank to run out of Deliverables and/or is not on a scheduled delivery route at its own request.

(c) *Start Burner Fee:* Assessed when Customer has run out of fuel during off-hours and requires its heating system to be re-started.

(d) *Leak Check:* Assessed when Superior tests a propane system for leaks.

(e) *Service Labor Evaluation/Diagnostic Fee:* Assessed to diagnose equipment service issues, including a flat hourly rate plus materials needed to make necessary repairs.

(f) *Tank Rent:* Assessed for Leased Equipment, varying based on the capacity of the Leased Equipment.

(g) *Minimum Usage Charge:* Assessed if annual purchases are less than one (1) times the Tank capacity.

(h) *Tank Pump Out:* Assessed to cover costs associated with pumping out an American Society of Mechanical Engineers Tank that contains Deliverable in excess of five percent (5%) of the capacity of the Tank and returning the Tank to Superior's location.



(i) *Meter Deposit*: Assessed when Customer's account is opened with Superior, required to cover gas usage prior to being billed. This deposit is held by Superior until Customer's account is closed and is then credited to Customer's last month's balance.

(j) *Meter Fee*: Assessed when Superior measures usage by meter reading.

(k) *Tank Monitor*: Assessed for monitoring Tank volume levels via an electronic satellite system.

(l) *Early Termination Fee*: Assessed when Customer with Leased Equipment terminates these T&Cs before the end of the Initial Term.

(m) *Re-Connect Charge*: Assessed if Superior is not able or permitted to gain access to the Tank, based on the time it takes to travel, remove the lock, perform a leak check, and return the system to service.

(n) *Returned Check Fee*: Assessed to offset the fees and related administrative expenses encountered by Superior when its financial institution charges for a check return, insufficient funds, or any other reason.

(o) *Service Technician Dispatch Charge*: Assessed when a service technician is dispatched to perform diagnostic and other service work.

(p) *Minimum Delivery Fee*: Assessed when Customer requests delivery of propane or of both propane and heating fuel with a volume of under one hundred (100) gallons.

(q) *Fixed Price Program Fee*: Assessed to Customer if it is enrolled in Superior's fixed price program (availability varies by location) to offset the risk of providing a fixed price during the winter.

(r) *Capped Price Program Fee*: Assessed to Customer if it is enrolled in Superior's capped price program (availability varies by location) to offset price volatility.

9. Unoccupied Residencies. If Customer is enrolled in Superior's automatic delivery program, Superior will make periodic deliveries based on a number of factors, including temperature conditions and the number and types of propane appliances in the residence. Customer must use reasonable care to maintain and monitor the Tank status and condition and all heating systems, including checking the property on a regular basis or otherwise monitoring the property to ensure it remains heated. Customer must notify Superior's local office if it has changed any propane appliances, used the residence more than customary, or of any other change or development related to the Deliverables.

10. Payment Terms. If Customer has credit terms with Superior and is not required to pay in advance or at the time of the delivery or other service, payment for all Deliverables will be billed at the time of delivery or service, which payment is due and payable thirty (30) days from the date of the delivery or service. If Customer fails to pay any amount when due, Superior may add a monthly late charge up to one and one-half percent (1.5%) of the average daily balance until paid or a late charge of twenty-five dollars (\$25.00), whichever is greater, and will be entitled to recover all reasonable costs of collection, including attorneys' fees. Superior has the right to require payment in advance, a cash deposit, or other assurance of payment satisfactory to Superior before making further deliveries to Customer. Customer with a metered account may be required to provide a cash deposit. Title to all Deliverables shall remain with Superior until Customer has paid in full.

11. Customer Representations. Customer warrants that it has been duly authorized by and represents all parties with an ownership interest in the property, whether they be joint tenants, tenants in common, or tenants by the entirety, and has been duly authorized and empowered by all parties with an ownership interest in the property to accept these T&Cs. Customer represents and warrants that the name, address, telephone number, and other contact and payment information it provided to Superior is accurate, complete, and current. Customer shall notify Superior immediately if there is any change to any contact information.

12. Consent to Being Contacted. If Customer provides Superior a telephone number or email address, Superior (and other third parties on its behalf) may contact Customer via automated means, including with an automatic telephone dialing



system or prerecorded or artificial voice. Such calls, text messages, or emails may include, without limitation, delivery reminders, delivery confirmations, past-due account notices, account notifications, and attempts to collect debts. Message and data rates may apply. To opt-out of receiving automated messages, calls, and or emails, please: (a) follow the opt-out instructions delivered via text message (e.g., reply "stop"); (b) opt out using Superior's online customer portal; or (c) request to be removed by contacting the local Superior contact center representative.

13. WARRANTY DISCLAIMER. TO THE FULLEST EXTENT PERMITTED BY LAW, SUPERIOR MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, WHETHER WRITTEN OR ORAL, WITH RESPECT TO ANY DELIVERABLES NOW OR HEREAFTER SUPPLIED OR PERFORMED, INCLUDING ANY WARRANTIES OF QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

14. LIMITATION ON LIABILITY. UNDER NO CIRCUMSTANCES WILL SUPERIOR BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, INDIRECT, OR EXEMPLARY DAMAGES OR LOSS OF PROFITS, REVENUES, USE, OR OPPORTUNITIES ARISING FROM THE DELIVERABLES OR OTHERWISE, REGARDLESS OF WHETHER A CLAIM OR REMEDY IS SOUGHT IN CONTRACT, TORT (INCLUDING NEGLIGENCE, WARRANTY, AND STRICT LIABILITY), STATUTE, OR OTHERWISE. WITHOUT LIMITING THE FOREGOING, SUPERIOR IS NOT LIABLE FOR ANY LOSS SUSTAINED BY CUSTOMER (INCLUDING DAMAGE TO THE CUSTOMER'S HOME, REAL PROPERTY OR PERSONAL PROPERTY RESULTING FROM WATER DAMAGE CAUSED BY FROZEN PIPES), AS A RESULT OF THE EXHAUSTION OR INTERRUPTION OF CUSTOMER'S SUPPLY OF THE DELIVERABLES OR ANY LOSS OR DAMAGE TO THE LEASED EQUIPMENT WHILE IT IS IN CUSTOMER'S POSSESSION.

15. LIMITATION OF DAMAGES. NOTWITHSTANDING THE TERMS OF PARAGRAPH 14, INCLUDING IN NO EVENT SHALL SUPERIOR'S AGGREGATE LIABILITY TO YOU OR OTHERS UNDER THESE T&CS OR OTHERWISE EXCEED \$1,000 OR THE COST OF REPLACEMENT OR REPAIRS OF SERVICES OR PRODUCT, WHICHEVER IS LESS.

16. STATUTE OF LIMITATIONS. ALL CLAIMS OF ANY NATURE WHATSOEVER AGAINST SUPERIOR MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE EVENT OR INCIDENT GIVING RISE TO CUSTOMER'S CLAIM AGAINST SUPERIOR. SUCH CLAIMS SHALL THEREAFTER BE TIME BARRED BY THIS PROVISION.

17. Indemnification. Customer agrees to indemnify, defend, and hold Superior 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 related to any negligent act or omission or breach of these T&Cs by Customer, its agents, contractors, or employees.

18. Excluded Performance. Superior is not responsible or liable for any failure or delay in the performance of its obligations arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, pandemics, epidemics, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications, computer (software and hardware) services, health crises. Under any of these circumstances, Superior may allocate the Deliverables to Customer at its discretion.

19. Termination. Superior may suspend or terminate its obligation to provide any Deliverables at any time and without prior notice if Customer fails to satisfy or breaches any of the terms and conditions in these T&Cs or if Customer fails to correct a safety issue after notice to do so by Superior.

20. Independent Contractors. The parties hereto shall be independent contractors and the relationship between them shall not constitute a partnership, joint venture, or agency. Neither party shall have the authority to make any statements, representations, or commitments of any kind, or to take any action, which shall be binding on the other party, without the express prior written consent of the other party.

21. APPLICABLE LAW. THESE T&CS SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW.



22. **WAIVER OF JURY TRIAL.** EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING WHETHER AT LAW OR IN EQUITY, COMMENCED BY EITHER PARTY THAT IN ANY WAY ARISES OUT OF THESE T&CS, ANY AGREEMENT OR CONTRACT WITH SUPERIOR, OR RELATING TO THE DELIVERABLES.

23. **Notice.** All notices, requests, demands, and other communications by the Customer under these T&Cs shall be in writing and shall be deemed to have been duly given if: (a) delivered by hand; (b) mailed by certified or registered mail with postage prepaid; or (c) delivered by reputable overnight courier.

24. **Binding Effect.** These T&Cs shall be binding upon and inure to the benefit of the parties and their respective heirs, assigns, executors, and administrators.

25. **Survival.** These T&Cs shall survive the expiration of the Initial Term, the expiration of any Additional Term, and the suspension or termination by Superior of any Deliverable provided to Customer.

26. **Assignability.** Customer may not assign these T&Cs or any of its obligations to Superior without the prior written consent of Superior. Superior may freely assign these T&Cs and/or its obligations hereunder without the consent of any other party.

27. **Severability.** If any portion of these T&Cs is deemed unenforceable, the unenforceable portion shall be deemed severed from the remaining portions of these T&Cs, which shall otherwise remain in full force and effect.

28. **Headings.** The headings in these T&Cs are for reference only and do not affect their interpretation.

29. **Waiver.** If Superior delays in exercising any of its rights, it will not be prevented from exercising its rights at a later date. In no event will Superior be deemed to have waived any rights unless such waiver is in writing. Superior's waiver of any breach of these T&Cs at any time shall not excuse future breaches by Customer.

30. **Changes to T&Cs.** These T&Cs modify or replace, as applicable, all prior agreements and terms between Superior and Customer. Superior may amend or modify these T&Cs by posting the amended or modified T&Cs on Superior's website. These T&Cs may not be modified orally and describe the entire agreement between Superior and Customer with respect to the Deliverables. Any prior arrangements, agreements, contracts, representations, warranties, purchase orders, bids, proposals, offers, or other communications, written or oral, that are inconsistent with these T&Cs, are superseded and of no force or effect.



EXHIBIT A
AFFILIATES AND TRADE NAMES

Affiliates

1. HIGH COUNTRY PROPANE, INC.
an Arizona corporation
2. KAMPS PROPANE, INC.
a California corporation

Trade Names

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| 1. ALLEN MATHEWSON | 21. FREEMAN GAS |
| 2. ALLIED PROPANE | 22. GAS INCORPORATED |
| 3. ANTHEM PROPANE EXCHANGE | 23. GRIFFITH ENERGY |
| 4. B & C LP GAS | 24. HOLDEN OIL |
| 5. BAKER GAS | 25. HOPKINS PROPANE |
| 6. BEACON GAS AND OIL CO. | 26. JENKINS PROPANE |
| 7. BMK OF GENEVA; BRANTLEY GAS | 27. KAL-GAS |
| 8. BURNWELL GAS | 28. LO-RAC ENERGY |
| 9. BURNWELL GAS DISTRIBUTORS | 29. LUMBER RIVER PROPANE |
| 10. CAROLINA ENERGIES | 30. MOHAWK HOME COMFORT SERVICES |
| 11. CENTRAL COAST PROPANE | 31. MOUNTAINFLAME PROPANE |
| 12. CHAMPAGNE'S ENERGY | 32. MUSCO |
| 13. COASTAL ENERGY | 33. NORTH AMERICAN PROPANE |
| 14. CURTIS OIL | 34. OSTERMAN PROPANE |
| 15. DENTON GAS | 35. PENINSULA PROPANE |
| 16. DIRECT FUELS | 36. PERRY'S/PATTEN'S |
| 17. DOWNEAST ENERGY | 37. PHELPS SUNGAS |
| 18. EARHART PROPANE | 38. PIEDMONT PROPANE |
| 19. EASTERN PROPANE | 39. PORCO ENERGY |
| 20. ENERGY SERVICES-SPP | 40. PROFLAME |



41. PROPANE SERVICES
42. QUARLES
43. RBS GAS
44. REED OIL
45. REID GAS
46. RYMES PROPANE & OIL
47. RUMSEY OIL CO.
48. SALEM PROPANE
49. SEIMAX GAS
50. SHELDON GAS
51. SMITH OIL COMPANY
52. SOUTHERN PROPANE
53. SPP
54. STALLINGS PROPANE
55. STEVENS PROPANE
56. STEUBEN L. P. GAS COMPANY
57. STILES FUEL
58. SUPERIOR PLUS PROPANE
59. T. F. PRENDERGAST FUELS
60. TOWNSEND ENERGY
61. VIRGINIA PROPANE
62. WARNER'S GAS SERVICE
63. WARNERS GAS
64. WESTERN PROPANE
65. WILLIAMS FUEL
66. YADKIN PROPANE
67. YANKEE PROPANE