



CONSUMER AGREEMENT

P.O. Box 333, Diamond Springs, CA 95619 (49'R) and

(Street Address) (City) (State) (Zip) ("Consumer"):

In consideration of the mutual promises in this agreement, 49'R and the consumer agree that:

Fees, Charges, Maintenance Fees, Etc. Are Not Refundable.

1. The consumer requests the installation of the propane storage and related equipment on the following list, and the Consumer agrees to pay 49'R the annual maintenance service fee (herein after "Maintenance Fee") for the equipment and related services as listed:

DESCRIPTION OF STORAGE & RELATED EQUIPMENT • INSTALLATION CHARGE • ANNUAL MINIMUM

2. 49'R agrees to deliver Propane Gas (hereinafter "Gas") from 49'R's tank into Consumer's pipeline(s) in a vaporized state, and to charge Consumer for the amount of vaporized Gas consumed by Consumer according to the terms and conditions herein set forth.

3. Gas stored in a propane tank located on Consumer's premises shall at all times remain the property of 49'R. Title to such Gas shall not pass to Consumer until 1) the Gas has been converted from liquid to vapor, and 2) the Gas has entered Consumer's pipeline and has left the tank.

4. The term of this agreement will be \_\_\_\_\_ years from the date on which it is signed by the Consumer and year to year thereafter, unless and until terminated as provided herein. Consumer will purchase all of the propane from 49'R that is required for use at the address in this agreement for the term of this agreement. Only propane sold by 49'R shall be used with the above equipment.

5. Consumer agrees to pay rates and charges due under this agreement prevailing at the time of sale within the price territory established by 49'R within 30 days after the billing date at the collection office designated by 49'R. 49'R may make annual adjustments to the maintenance fees on the equipment listed above. If the Consumer fails to pay any amount when due, 49'R shall add a late charge of \_\_\_\_\_ to all past due balances and shall be entitled to recover its reasonable costs of collection, including attorney's fees. If the credit of the Consumer shall be deemed unsatisfactory by 49'R for any cause, 49'R may require payment in advance before making further shipments.

6. Consumer agrees to pay any license, permit or inspection fees or taxes imposed upon the equipment or the transaction agreed to in this agreement. If Consumer uses propane for any taxable purposes, Consumer shall report and pay the tax to the taxing authorities. 49'R reserves the right to require Consumer to post a cash deposit as security for the payment of any sum which may be due under this agreement. This deposit may be applied by 49'R at any time in whole or in part to any sums owed by Consumer to 49'R.

7. All Equipment supplied or installed by 49'R will remain the property of 49'R and shall not become a fixture of the Consumer's property or a part of the real property. Consumer owns all tubing, piping and fittings not owned by 49'R and is solely responsible for their maintenance. Upon request of 49'R, Consumer shall execute a financing statement in form reasonable satisfactory to 49'R and return it to 49'R for filing. CONSUMER WILL NOT, NOR ALLOW ANYONE ELSE, TO MAKE ANY ADJUSTMENTS, CONNECTIONS OR DISCONNECTIONS TO THE EQUIPMENT UNLESS WRITTEN PERMISSION RECEIVED FROM 49'R. Consumer will allow 49'R free access to the property where the equipment is to be located at all times to install, service or remove the equipment, or to perform any other services that it deems necessary under this agreement.

8. THERE IS NO REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY PROPANE OR EQUIPMENT NOW OR HEREAFTER SUBJECT TO THIS AGREEMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR AN INTENDED PURPOSE. UNDER NO CIRCUMSTANCES SHALL 49'R BE LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION DAMAGES.

9. The Consumer authorizes 49'R to replace its equipment at any time with no changes in the obligations of this agreement. If 49'R replaces the equipment with equipment of different capacity, the annual maintenance fee, if any, will be adjusted to those that are currently being charged for the equipment which is substituted. The Consumer authorizes 49'R, in its discretion, to temporarily remove its equipment during periods of non-usage by the Consumer, in which event the maintenance fees, if any, will be suspended.

a. It is agreed that the tank, all pipe work and equipment were pressure checked at the time of installation, and was sound and in good repair at the time Consumer took possession of system. Consumer agrees to notify 49'R immediately if the equipment is damaged or malfunctions or if Consumer experiences any problems with the equipment.

10. 49'R is not responsible for furnishing fill, resurfacing or restoring Consumer's premises to its previous condition when any equipment is removed by 49'R.

11. Either party may terminate this agreement at the expiration of the original or extended term by giving the other party 30 days' prior written notice. Either party may terminate this agreement if the other party fails to satisfy any of the terms and conditions of this agreement. 49'R may terminate this agreement immediately if:

- a. The Consumer fails to purchase the annual minimum set forth above; or
b. The Consumer fails to pay 49'R amounts due under this agreement; or
c. The Consumer removes, tampers with, or abuses the equipment installed by 49'R.

As any loss arising from a breach of the contract by Consumer would be difficult to determine, it is agreed that in addition to any other remedies hereunder, liquidated damages for any breach of performance will be the dollar amount set forth above or 49'R's lost profit margin for the annual minimum gallonage. This amount is due and payable immediately at the time of breach, plus interest, and if necessary costs of collection to the maximum extent permitted by law.

12. Consumer will promptly surrender to 49'R all of 49'R's equipment in the Consumer's possession when this agreement is terminated for any reason. 49'R reserves the right to charge a restocking charge for picking up the equipment and propane.

13. If 49'R or Consumer delays exercising any of its rights under this agreement, that party will not be prevented from exercising such rights at a later date. If 49'R or the Consumer waives any breach of this agreement, that party will not be prevented from enforcing its rights under this agreement as though no waiver had occurred. 49'R is not liable for any loss sustained by the Consumer as a result of the temporary exhaustion of the Consumer's supply of propane, nor for any injuries to persons or property arising out of the storage or use of propane, or the use, operation, and maintenance or repair of any equipment or appliance storing or utilizing propane.

14. 49'R shall not be responsible for any delay or damages caused by events or circumstances beyond its reasonable control, including without limitations acts of God, fire, storms, floods, wars, compliance with laws or regulations, or 49'R's inability to obtain propane from its customary suppliers. 49'R may sell, transfer or assign this agreement without Customer's consent provided the agreement remains in full force and effect as between the Consumer and the person replacing 49'R.

15. This agreement is the final understanding between 49'R and the Consumer and there are no prior representations or warranties. If any part of this agreement is adjudged invalid or unenforceable, the remainder of this agreement will continue to be valid and enforceable. This agreement may be modified or amended only in writing signed by both 49'R and Consumer.

16. If 49'R files a lawsuit or implements collection procedures to enforce any of the terms and conditions of this agreement or to recover possession of any of its equipment, Consumer agrees to pay 49'R's reasonable costs, including attorney's fees, to the maximum extent permitted by law.

17. This agreement shall be construed in accordance with, and governed by, the laws of the State of California, County of El Dorado as applied to contracts that are executed and performed entirely in California.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Consumer 49'R Propane, Inc. By: \_\_\_\_\_

Identification (source & number) \_\_\_\_\_ District: \_\_\_\_\_