

# H.C. WOODMANSEE & SON

Fuel Oil - Kerosene - Propane - HVAC

2 Mechanic Street

Hope Valley, RI 02832

401-539-2425

www.woodmanseehc.com

## RESIDENTIAL CREDIT APPLICATION AND SERVICE AND SUPPLY AGREEMENT

Customer Number:		Date:	<b>PLEASE PRINT</b>
Name of Applicant ( <i>First, Middle Initial, Last</i> ):		Telephone #:	
Social Security#: (required for auto delivery and credit)		Email Address:	
Spouse or Co-applicant Name:		Date of Birth:	
Mailing Address:		Social Security#: (required for auto delivery and credit)	
Delivery Address:		Rent <input type="checkbox"/> Own <input type="checkbox"/> Landlord <input type="checkbox"/> No. years at current address:	
Employer Name:		Employer Telephone No.:	Address:
If Tenant, Landlord Name:		Landlord Telephone No:	Delivery Type: Automatic <input type="checkbox"/> Will Call <input type="checkbox"/>

I (We) certify that all information listed above is correct and current.

Customer agrees Osterman may investigate credit records. Osterman Propane LLC – HC Woodmansee Oil may report performance under any agreement Customer may enter into with Osterman Propane LLC – HC Woodmansee Oil to any credit agency.

### Schedule of Initial Charges and Fees

**Special Delivery Charge: \$100/\$200** (per incident)  
(Incurred for unscheduled, off-route or after-hours deliveries)

**Return Check Charge: \$35** (per incident)  
**Hazmat Fee: \$11.62** (per delivery)

**Service Tech Dispatch (trip) Charge: \$60**  
(Incurred each time service technician dispatched)

**Burner Prime Charge: \$110**  
(to re-prime and re-light oil fired appliances)

**Further terms and conditions governing the supply of fuel oil, equipment and service to Customer are contained within this document (pages 1-4) and are an integral part of this service and supply agreement. A signed version of page 1 will be considered legal and binding.**

I/We agree to pay any balance owed to Osterman – HC Woodmansee Oil within thirty (30) days of the invoice date. I/We shall pay finance charges that accrue on the unpaid balance outstanding for more than 30 days after invoice date at the rate of 1½% per month (18% A.P.R.). I/We understand that legal action may be taken if I/we fail to fulfill my/our obligation under this contract and I/we will be responsible for all collection costs including, interest, filing fees, and attorney fees of not less than \$195.00 plus any additional amounts assessed by the court. **Customer acknowledges receipt of a copy of this “Residential Credit Application and Service and Supply Agreement.”**

Applicants Signature:	Print Name:	Date:
Spouse or Co-Applicant's Signature:	Print Name:	Date:

<b>OFFICE USE ONLY</b> Product _____	Fill Location _____ Color & Style of House _____	Will Call/Auto (circle) Notes _____
Tanks Size _____	Heat Only or Heat & HW (circle)	

## TERMS & CONDITIONS - Residential Customers

THESE TERMS AND CONDITIONS REQUIRE THAT DISPUTES BE RESOLVED INDIVIDUALLY IN BINDING ARBITRATION OR SMALL CLAIMS COURT.

### I. GENERAL TERMS & CONDITIONS FOR RESIDENTIAL CUSTOMERS OF THE COMPANY:

**1. TERM.** Your "Term" is the period of time for which You have agreed to maintain service with the Company. If You have not signed a customer contract with the Company, Your term will be three years from the date that You began service with the Company and unless terminated by either party will automatically renew from year-to-year thereafter.

### **2. METHODS OF PRODUCT DELIVERY. (The term "product" means fuel oil)**

**A. Automatic Delivery** – The Company will make deliveries periodically based on its forecasting factors (that is, for example, based on such things as exterior temperatures, the number and types of appliances installed in the building being heated, degree days and Your prior history of usage at the same time of year). To ensure accurate forecasting for Your Automatic Delivery, we request that You notify Your local office of any changes of appliances, or whether there are other anticipated changes in Your usage.

**B. Fixed Cycle** deliveries are based on a set delivery schedule. An example of a Fixed Cycle is a scheduled delivery once a week, bi-weekly or once per month, etc.

**C. Will-Call** – With this option, the Company will make deliveries only when You affirmatively request a delivery of product. The Company recommends that You request a delivery when the level product in Your tank is at 30%; allowing for a timely delivery to be scheduled. The scheduling of a will-call order to be delivered may take up to 5-10 business days to complete. Note: weather and any unforeseen factors may affect the actual delivery time. A Special Trip Fee may be assessed if orders need to be expedited, that is, that You can't wait for the delivery to be made given the 5-10 business day time needed for the scheduling of a delivery.

### **3. PRICE FOR FUEL OIL AND OTHER PRODUCTS.**

You agree to pay the Company's price per gallon for fuel oil and other products plus any associated fees, rates and charges in effect at the point of delivery at the time of the delivery, whether the delivery is an automatic, will-call, fixed cycle or metered delivery. Your price may be based on a pricing agreement with the Company, which either specifies the price per gallon or provides a formula for determining the price for the product, plus any applicable standard fees, rates or charges in effect on the date that fuel oil or another product is delivered to You. If there is not a contract between You and the Company for the price of the fuel oil or another product, the Company may change its prices for fuel oil, or other products without prior notice. The price of fuel oil or other products is based on a number of variables including, but not limited to, market influences, the Company's costs, the Customer's usage, freight and transportation charges, the Customer's annual volume usage and other related factors.

### **4. FEES & CHARGES.**

In addition to the price per gallon for fuel oil and other products, the Company will charge the following fees and charges which may vary by service territory and are based on the services rendered. **The fees/charges ARE NOT governmentally imposed and no portion of any fee is paid to any governmental agency.**

**Hazardous Material Safety & Compliance Fee (also referred to as the "HazMat Fee")** - This fee, which is assessed on every product delivery, is calculated to offset a portion of costs related to federal, state and local government-mandated compliance processes for the handling of hazardous materials, workplace safety, emergency preparedness, and environmental protection, among other things. It enables the Company to maintain its mandated safety standards, provide training and continue our goal of delivering superior service. ***The fee at this time of notice is \$11.62.***

**Delivery/Off Route Fee (Special Trip Charge)** - This fee may be charged to customers who have elected to manage their own delivery schedule for fuel oil, and A. have failed to monitor their usage and the volume of fuel oil remaining in the tank and as such, have allowed their fuel tank to run out of Product and/or B. are not on a scheduled delivery route at their own request. ***\$100 for weekday delivery / \$200 for weekend delivery***

**Start Burner Fee** - This fee may be charged for customers who have run out of fuel during off-hours and require their heating system to be re-started. ***\$110***

**Service Labor Evaluation/Diagnostic Fee** - This fee may be applied in order to diagnose equipment service issues. A flat hourly rate plus materials needed to make necessary repairs will also be charged. This fee is not charged to customers on a service plan. ***\$60 trip charge + \$110 per hour labor rate***

**Early Termination Fee** – Customers with Leased Equipment who terminate their Propane Supply Agreement before the end of the term can be assessed an Early Termination Fee. This fee may be combined with equipment removal fees & other costs. ***This fee varies by service area – contact Your local office for more details.***

**Fuel Cost Recovery Fee** – This fee, which is assessed on deliveries and service calls, is designed to offset the expenses incurred by the Company in fueling its fleet of motor vehicles. ***This fee varies by service area because the costs vary – contact Your local office for more details.***

**Re-Connect Charge** – This fee is assessed in the event that the Company locked off the tank or cylinder due to nonpayment. This fee is assessed based on the time it takes to travel to the customer location, remove the lock, perform a Leak Check and put the propane system back into service. ***Labor rate of \$110 per hour.***

**Returned Check Fee** – This fee offsets the fees and related administrative expenses encountered by the Company when its bank/financial institution charges for the return of a check provided to the Company by a customer for payment of products delivered or services rendered. This is associated with the return of a customer check due to insufficient funds. ***\$35 per incident***

**Service Technician Dispatch Charge** – This charge is assessed when a service technician is dispatched to a customer location to perform diagnostic and other service work. Other charges may apply if service work is performed. ***\$60 each time a service technician is dispatched.***

**Credit Card Processing Fee** - Fee charged to process credit card transactions made over the phone. To clarify, this fee is charged to a customer who provides a Company representative with his Credit Card number and requests that the Company input the data and processes it with the Bank of other entity with whom the Customer has an account.

**Minimum Delivery Fee** – A fee for a requested delivery of fuel oil or of both fuel oil and heating fuel with a volume of under (100) gallons. *Rates may vary by service area – contact Your local office for more details.*

#### **5. INVOICES AND STATEMENTS.**

**Terms:** Payments for deliveries and service are due within 30 days after the delivery of fuel oil or another product or a service call. Some contracts, in certain service areas may specify that payment is due on the earlier of 30 days after the date that the customer received the invoice, or the due date as set forth on the invoice Payment terms may also be changed if Your account becomes delinquent. Any such change will be communicated to You in writing.

**A Late Payment Fee** (sometimes also referred to as a “Finance Charge” or “Service Charge”) is computed at a periodic rate of 12% to 18% annually (1% to 1.5% per month) (rates may vary by delivery state) and is applied to the past due balance. When a Late Payment Fee is imposed, the minimum charge is \$0.50. *This rate may vary based on Your service area. Check with Your local office if you want more information.*

**6. LICENSES, PERMITS AND TAXES.** You agree to pay for all licenses, permits, and taxes associated with the sale or use of the fuel oil and leased equipment or service covered by this Agreement.

**7. LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES WILL COMPANY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES. THIS LIMITATION APPLIES REGARDLESS OF WHETHER A CLAIM OR REMEDY IS SOUGHT IN CONTRACT, TORT OR OTHERWISE. THE COMPANY IS NOT LIABLE FOR ANY LOSS SUSTAINED BY YOU AS A RESULT OF THE EXHAUSTION OF YOUR FUEL OIL SUPPLY OR THE SUPPLY OF ANY OTHER PRODUCT PROVIDED, INCLUDING WITHOUT LIMITATION, DAMAGE TO YOUR HOME OR PERSONAL PROPERTY RESULTING FROM WATER DAMAGE FROM FROZEN PIPES. FURTHER THE COMPANY IS NOT LIABLE FOR DAMAGES TO THE SEPTIC SYSTEM, DRIVEWAY, LAWN AND/OR LANDSCAPING, AMONG OTHER THINGS, IF EQUIPMENT MUST TRAVEL OVER THE LAWN, DRIVEWAY, ETC. WHEN INITIATING SERVICE, PERFORMING REPAIRS OR REMOVING EQUIPMENT.

**8. DISCLAIMER OF WARRANTIES.** THE COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY FUEL OIL OR OTHER PRODUCT SOLD, TANK, CYLINDER, AND/OR RELATED EQUIPMENT OR SERVICE SUPPLIED OR PERFORMED UNDER THIS AGREEMENT OR ANY PRIOR AGREEMENT OR UNDERSTANDING, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL PRODUCTS SOLD, SERVICES RENDERED AND/OR EQUIPMENT SOLD OR LEASED TO YOU ARE SOLD OR PROVIDED TO YOU “AS IS.” SOME STATES (CT, KS, ME, MS, NH, WA, AND WV) MAY NOT ALLOW THIS EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMERS WHERE DELIVERIES AND/OR SERVICE ARE PROVIDED IN THOSE STATES.

**9. INDEMNIFICATION.** All parties to this Agreement agree to indemnify, defend and hold any other parties 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 caused by any negligent act or omission on the part of that party, its agents or employees.

**10. EXCUSED PERFORMANCE.** The Company will not be responsible for any delay or damages caused by events or circumstances beyond its reasonable control, including without limitation, acts of God, fire, storms, floods, labor disputes, wars, hostilities, terrorism, compliance with laws or regulations, the Company’s inability to obtain fuel oil or any other product or equipment from its customary suppliers or terminal or refinery or pipeline disruptions, allocation programs or lack of or inadequate transportation facilities. Under any of these or similar circumstances, the Company may allocate fuel oil or any other products and equipment among its Customers in any manner that the Company, in its sole judgment, deems reasonable under the circumstances.

**11. CHANGES TO THE TERMS & CONDITIONS.** The Company reserves the right to change or add to these Terms & Conditions (other than price per gallon, fees, rates, and charges, which may be changed without prior notice) at any time by giving You prior written notice of the change(s). The notice may be in the form of a bill insert, email, or other written notification. By accepting delivery of fuel oil or by paying any invoice, or other charges after You have been given notice of the change(s), You will be considered to have agreed to the change(s). These Terms & Conditions may not be modified orally.

**12. CUSTOMERS WITH RESIDENCES THAT ARE NOT OCCUPIED YEAR-ROUND.** If You are enrolled in the Company’s Automatic delivery program, we will make periodic deliveries to Your vacation/seasonal residence based upon a number of factors, including temperature conditions and the number and types of appliances using the products purchased from the Company in Your vacation/seasonal residence. **HOWEVER, IT IS YOUR RESPONSIBILITY TO NOTIFY US IF YOUR TANK PERCENTAGE FALLS BELOW 30% even when Your account is on automatic delivery if the residence is not occupied year-round.** Moreover, You must notify Your local office if You change any fuel oil appliances or any appliance using any other product sold to you by the Company, use Your vacation/ seasonal residence more than customary, or if any other change or development occurs that may cause Your residence to use more fuel oil or other products sold to You by the Company than customary.

**THE COMPANY DOES NOT ACCEPT RESPONSIBILITY FOR ANY DAMAGE CAUSED BY YOUR FAILURE TO NOTIFY YOUR LOCAL OFFICE OF A DELIVERY REQUEST. ADDITIONALLY, THE COMPANY IS NOT LIABLE FOR DIRECT DAMAGES TO PERSONAL AND/OR REAL PROPERTY (INCLUDING, BUT NOT LIMITED TO, DAMAGE RESULTING FROM FROZEN PIPES) THAT OCCUR AS A RESULT OF YOUR INCREASE IN USAGE OR YOUR FAILURE TO PROVIDE ADEQUATE ADVANCED NOTICE OF A NEED FOR A DELIVERY TO AVOID THE EXHAUSTION OF FUEL OIL OR ANY OTHER PRODUCT PURCHASED FROM THE COMPANY.**

### **13. CLAIMS AND ARBITRATION.**

**A. What is an Arbitration Agreement?** Upon the choice of either party to these Terms & Conditions (or any other entity or individual with the right to require arbitration under this provision, including, but not limited to, those entities or individuals named in this Section 13(A)(2), immediately below), a Dispute shall be resolved by binding arbitration. The term "Dispute" means any claim or controversy arising from or relating to these Terms and Conditions, your agreement with the Company, or the relationship between you and Company, including without limitation, any and all: (1) claims for relief or theories of liability, whether based in contract, tort, statute or otherwise; (2) claims against Company or its parents, subsidiaries, affiliates, predecessors, successors or assigns and any of their directors, officers, employees and agents (any of whom may elect arbitration of claims to which they are a party pursuant to these Terms and Conditions); (3) claims that arose before this Arbitration Agreement took effect; (4) claims that arise during or after the expiration or termination of this Arbitration Agreement; and (5) claims that are the subject of a purported class action or other representative or collective action. "Dispute" shall not, however, include claims filed by you or Company on an individual basis in small claims court if the amount claimed is within the jurisdiction of that court.

**B. Can I Reject this Arbitration Agreement?** Notwithstanding anything in this Arbitration Agreement to the contrary, you may reject this Arbitration Agreement. To do so, you must send the Company written notice by mail postmarked no later than thirty (30) days after your first receipt of notice of the this Arbitration Agreement to "Arbitration Office", 1870 S Winton Rd Suite 200, Rochester, NY 14618. Your rejection notice must be signed, must state that you reject this Arbitration Agreement, and must include your name, address, and Company account number. Your decision will not adversely affect your relationship with or receipt of goods or services from Company.

**C. How Does Arbitration Work?** This Arbitration Agreement is governed by the Federal Arbitration Act. Arbitrations shall be conducted by a single arbitrator and administered by the American Arbitration Association ("AAA") pursuant to its Consumer Arbitration Rules (collectively the "AAA Rules") in effect when notice of a Dispute is given. If your claim is for less than \$10,000, you may choose whether the arbitration will be decided based only on the papers that relate to the dispute or after a telephonic or in-person hearing. At Your decision to do so, arbitration hearings will take place in the federal judicial district where Your residence is located.

**D. Can I Have a Lawyer Represent Me & Recover Attorneys' Fees and Costs in Arbitration?** You may retain an attorney to represent you at the arbitration. In general, You are responsible for your attorneys' fees and costs; however, You may recover them from the Company to the same extent as in court if You are the prevailing party. You will also be responsible for paying your share of any arbitration fees (including filing, administrative, hearing or other fees), but only up to the amount of the filing fees You would have incurred if you had brought a claim in court. The Company will be responsible for any additional arbitration fees.

**E. Waiver of Jury Trials and Class Actions.** IN ARBITRATION, DISPUTES ARE RESOLVED BY AN ARBITRATOR RATHER THAN A JUDGE OR JURY. AS A RESULT OF THE TERMS OF THIS ARBITRATION AGREEMENT, YOU AND COMPANY WAIVE THE RIGHT TO PROSECUTE OR PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, OR OTHER REPRESENTATIVE ACTION. UNLESS YOU AND COMPANY AGREE OTHERWISE IN WRITING, THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED ON A CLASS ACTION OR COLLECTIVE BASIS, AND NEITHER THE ARBITRATOR NOR THE JUDGE MAY CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. THE ARBITRATOR MAY AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF TO THAT INDIVIDUAL PARTY. **THIS CLASS AND COLLECTIVE ACTION WAIVER IS A MATERIAL AND ESSENTIAL PART OF AND CANNOT BE SEVERED FROM THIS ARBITRATION AGREEMENT.**

**14. SEVERABILITY.** In the event that any provisions of this Agreement are determined to be invalid under applicable law or unenforceable by a court with appropriate jurisdiction, such provision shall be deemed to be restated to reflect, as nearly as possible, the original intention of this Agreement in accordance with applicable law. The remaining terms will remain unaffected by the invalid or unenforceable term, and each such term will continue to be valid and enforceable to the fullest extent of the law.

\_\_\_\_\_ (initials)  
\_\_\_\_\_ (date)

### **WILL CALL CUSTOMERS**

- 1. Periodically Check the Gauge on Your Tank:** When the dial reads  $\frac{1}{4}$ , call the office to arrange for a delivery. The office is open from 7:30 am to 5:00 pm, Monday through Friday. Please provide the tank gauge reading when you call.
- 2. Truck Scheduled in Your Area:** Please understand that this is subject to change depending on emergency situations, weather, or other issues the result in rescheduling our regular routes. We strongly suggest reading your gauge, calling to confirm when our truck is in your area, and allowing at least 5 business days notice before expecting a delivery.
- 3. If You Run Out:** Please call the office. There will be a delivery charge which must be paid to the driver at the time of delivery before oil can be delivered under the following situations:
  - \$200 Charge** if the run out occurs after the close of our business day  
if the run out occurs on the weekend or a holiday
  - \$100 Charge** if you request a delivery during business hours on a day other than that already scheduled  
if you are not currently scheduled, but request a delivery on the day we are in your area

**Note:** Please keep in mind that if a run out occurs and delivery is requested, HC Woodmansee Oil will make all reasonable efforts to deliver, but cannot promise an exact time of delivery and ALL applicable charges will be billed.

**Remember:** It is YOUR responsibility to check your oil tank gauge and provide proper notice to HC Woodmansee Oil when requesting delivery.

1-1-2019 Osterman does not share any Customer's personal information with any other entity except its affiliates. Fax# - 401-539-0470