



Van Dyke Gas Co.

23823 Sherwood Ave.
Center Line, MI 48015
586.486.3749

15155 33 Mile Rd.
Bruce Township, MI 48065
586.752.9700

PROPANE DELIVERY AND SERVICES AGREEMENT

DATE: _____

WHY DID YOU CALL VAN DYKE GAS CO _____ LEAD SOURCE _____

NAME: _____ SPOUSE: _____

BILLING ADDRESS: _____ REFERRAL: _____

CITY: _____ STATE: _____ ZIP CODE: _____ HOME PHONE: _____

DELIVERY ADDRESS: _____ E-MAIL: _____

CITY: _____ STATE: _____ ZIP CODE: _____ LEAD SOURCE: _____

DO YOU OWN THE HOME YES NO IF NO, LANDLORD PHONE _____ LEASE EXP _____

YEARS AT THIS PROPERTY: _____ PRIOR ADDRESS: _____

PREVIOUS SUPPLIER: _____

CENTRAL HEATING FUEL TYPE: LPG OIL KEROSENE ELECTRIC

PROPANE USE: HEAT HOT WATER SPACE HEATING POOL HEATING FIREPLACE COOKING
 GENERATOR DRYER OTHER: _____

PROPANE TANK SIZE (GALS): 60 120 250 330 500 1,000 OTHER _____

TANK LOCATION: AG UG CUSTOMER OWNED TANK: YES NO DELIVERY: AUTO DATED

TANK SERIAL NO. _____

NEW SERVICE: YES NO - IF NO, IS A TANK INSTALLED NOW: YES NO QTY IN TANK _____ GALS

TYPE OF PAYMENT DESIRED: 30-DAY BILLING BUDGET (REGULAR) BUDGET (DIRECT DRAFT) COD

CREDIT CARD SECURITY DEPOSIT \$ _____

PRICE PLAN: _____

NOTES AND SPECIAL INSTRUCTIONS: _____

\$50-\$50 REFERRALS: NAME _____ PHONE _____

Whole House Heat Only NAME _____ PHONE _____

NAME _____ PHONE _____

We reserve the right to charge an Annual Minimum Gallon Requirement fee for delivery volume less than one times the tank capacity. The current price for this annual fee is \$ _____.

We may order a consumer report in connection with this application and subsequent consumer reports in connection with updating, renewing and reviewing the existing or future extension of credit. Upon your request we will provide the name and address of the consumer credit agency furnishing such report to us. The Federal Equal Credit Opportunity Act prohibits us from discriminating against you in any way in the granting of credit. The federal agency which administers compliance with this law is the Federal Trade Commission, Washington D.C. 20580. We have given to you and you acknowledge receipt of a complete description of the General Terms and Conditions of the Retail Fuel Delivery and Services Agreement, your Billing Error Rights and Notice of Cancellation, which are enclosed with this agreement.

BUYERS RIGHT TO CANCEL

YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ENCLOSED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

SIGNATURE: _____ DATE: _____

**RETAIL PROPANE DELIVERY AGREEMENT
Terms and Conditions**

In these Terms and Conditions the words we, us, our, Seller and ours mean Van Dyke Gas Co. The words you, your and yours mean the Buyer. The word location means the address identified by you as the location for us to deliver propane. The word Agreement is defined in Section 17 below. These Terms and Conditions shall apply to any propane or services delivered after September 15, 2016 (the "Effective Date").

1. Deliveries: You agree to purchase propane from us and we agree to sell to you all of your propane requirements into the liquid propane tank(s) or the cylinder(s) you rent from us or own (in either case, with any regulator(s), and related equipment, the "Tank") at the location, on a delivery by delivery basis, subject to the Agreement. We make propane deliveries to you at the location on an automatic degree-day basis, or by standard periodic calendar basis, subject to the Agreement unless you require deliveries only if you call us. Rush or "out of propane" fees may apply to "will call" deliveries. We reserve the right to charge an annual minimum gallon requirement fee not to exceed one times tank capacity for annual delivery volume less than one times tank capacity. The charge for this annual fee is subject to change annually. You agree to the use of electronic communication, including the Internet or telephonic recordings (or similar technology), to enter into contracts, place orders and create other records with us. By accepting your next propane delivery after receipt of these Terms and Conditions, you are agreeing to the provisions contained in the paragraphs below.

2. Pricing: Your price for propane will fluctuate from delivery to delivery and will be stated on the delivery ticket left at the location. You are responsible for applicable taxes. You may also be charged a regulatory compliance fee to help underwrite a portion of the costs associated in complying with local, state, and federal regulations governing the safe handling of hazardous materials. We may require you to keep a credit or debit card on file for automatic payments. You also agree to pay us for installation and rental of our Tanks.

3. Services Charges: If we perform service work for you which is not covered by any type of written service contract, warranty or guarantee, we will mail you an invoice which shall cover both parts and labor, and you agree to pay it in full within thirty (30) days.

4. Tanks: (a) This Section applies to any rentals of Tanks from us. You have the right to use our Tank(s) at the location for so long as you comply with the Agreement. Our Tanks are and shall remain our personal property, and shall not become a fixture or part of your location. We may adjust your Tank size based on your actual propane use. No person or company other than us may use, evacuate, fill or service our Tanks. You give us free and unlimited irrevocable access to and from the location to service, inspect, paint or remove our Tanks. If our Tanks are found to be defective or malfunctioning for any reason not caused by your negligence, we agree to repair or replace it at our cost. We service our Tanks at our cost, except for repairs due to your negligence. **NO PERSON OR ENTITY OTHER THAN SELLER MAY USE, EVACUATE, FILL OR SERVICE OUR RENTED TANKS.**

(b) This Section applies to the Tanks you own. You are solely responsible for your Tanks, including maintenance. We are not responsible for any damages to or resulting from your Tanks, property or other equipment.

(c) This Section applies to Tanks you rent from us or that you own. We perform a "gas system check" when your account is opened. You permit only appliances listed with us at account opening to be connected to or receive propane from Tanks. You will not move, alter, damage or otherwise tamper with Tanks or Tank numbers or inscriptions. You agree to notify us immediately of suspected defects or malfunctions. If any equipment is required to be underground, you agree it is normal and expected for damage to occur to surrounding surface areas during Tank installation, delivery, servicing, or removal. During the term of this Agreement, you give us free and unlimited irrevocable access to and from Tank(s) location to deliver, including keeping the location free of snow, vegetation and debris. We make no representation or warranty to you concerning the safety or adequacy of Tanks or any external components or vents. It is your sole responsibility to protect your buildings against damage arising from a drop in temperature. You should arrange for daily temperature monitoring of any buildings if you plan to be away from the location. If you smell odor, immediately contact fire or police and evacuate the buildings. See Propane Tank Ownership Confirmation Agreement for additional terms and conditions.

5. Billing: You agree to pay the full amount shown on each invoice when due. Where required, invoices are to be paid on the delivery date with a credit card held by us on account. Otherwise, if an invoice is not paid in full when due, we will send you a statement ("Statement") showing the amounts due for deliveries, service charges and any other amounts due. We will charge you a \$25.00 fee for all returned checks (\$20 in New York).

6. When a Late Fee will be Added: If we do not receive full payment of any invoice by thirty (30) days after the invoice date, you must pay a late fee. The late fee will appear on your next Statement. We compute the late fee based on a periodic rate of 1.5% per month, which is an ANNUAL PERCENTAGE RATE of 18%, with a minimum late fee of \$0.50. We will figure the late fee using the Adjusted Balance Method. In no event will the late fees be more than the law allows.

7. Collection Costs: You agree to pay, in addition to your unpaid balance, all costs of collection as permitted by law, including without limitation reasonable attorney and collection agency fees, court costs and costs of retrieving our Tanks. We can accept late payments, partial payments or payments marked "payment in full" without losing any of our rights under the Agreement. We can also delay enforcing our rights without losing any of our rights under the Agreement.

8. Assignment: You are not allowed to assign the Agreement or any rights hereunder without our prior written consent. You must notify us at least thirty (30) days in advance if you sell or leave the location so we may retrieve our Tanks.

9. Term; Termination: If you fail to make a payment by thirty (30) days from the invoice date, we may immediately suspend deliveries, and retrieve our Tanks and/or terminate the Agreement with or without notice and without further responsibility. We or you may terminate this Agreement without cause on forty-five (45) days' notice to your billing address and to our address above. Agreements for Rented Tanks shall not exceed thirty-six (36) months.

10. Arbitration of Disputes: Any controversy or claim initiated after the Effective Date arising out of or relating to this contract or any breach thereof shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Consumer Arbitration Rules. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the forgoing, any controversy or claim may be submitted by either Buyer or Seller to a small claims court having jurisdiction of the controversy or claim. Buyer and Seller agree that for any claim initiated after the Effective Date either MAY BRING CLAIMS AGAINST THE OTHER ONLY IN BUYER OR SELLER'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, Buyer and Seller agree that the arbitrator may not consolidate proceedings or more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

11. Disclaimer: TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR EQUITY, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED, whether or not purposes or specifications are described herein. We are not be responsible for bodily injury, property damage, or a decrease in property value arising out of the disposal, discharge, dispersal, release or escape of any propane substances or derivatives into or upon the location, any surrounding location, the atmosphere or any water course or body of water.

12. Indemnity: You agree to indemnify and hold us harmless from any and all claims for injury or property damage directly or indirectly arising from filling the Tank and adjoining systems. You assume all risks associated with the delivery of propane. Seller shall not be responsible for any damages done by its trucks to your driveway, yard or any personal property.

13. Limitation of Damages: WE WILL HAVE NO LIABILITY FOR DIRECT OR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, including without limitation, frozen pipes or damage to buildings, poultry, livestock, or the location. Without limiting the previous sentence, you understand and agree that we are not responsible for loss or damages due to or resulting from: changes in propane consumption; delays in making deliveries or rendering service, your failure to schedule service or maintenance; acts of God; terrorism, war, strike, lockout, riot, blockage, embargo, transport or labor shortages, explosion, extreme weather, fire; flood; hurricane; power interruption or loss; accidents; governmental acts; abuse or misuse of equipment; spontaneous part failure; insufficient water; any other conditions beyond our control, including a location that is vacant or unattended, unoccupied or Tanks that are not accessible; or loss of heat or any resulting damage arising from a freeze-up in an occupied, empty or unoccupied dwelling or business. In these Terms, "vacant or unattended" shall mean a location at which no adult occupant is present for at least twenty-four (24) consecutive hours.

14. Limitation of Liability: Class Action Waiver: Any and all actions against us arising out of the Agreement or otherwise, whether based in contract or tort, whether for personal injury or property damage must be commenced within one year of the cause of action or shall be barred as a matter of law. IN NO EVENT SHALL OUR LIABILITY TO YOU OR OTHERS UNDER THE AGREEMENT OR OTHERWISE EXCEED \$1,000.00. LITIGATION MUST BE ON AN INDIVIDUAL BASIS. THIS MEANS NEITHER YOU NOR WE MAY JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS, OR LITIGATE IN COURT AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

15. Waiver of Subrogation: You and we mutually waive any and all rights of subrogation and/or recovery, against each other, including our officers, members, agents and employees, occurring on or arising out of the Agreement, the delivery of propane and any service or repair at the location to the extent such loss or damage is covered by proceeds received from casualty, homeowners or other insurance carried by the other party. If we or you sustain a loss, we or you shall have no right of recovery against each other or the agents, servants, contractors or employees of each other. No third party, including but not limited to any insurance carrier, shall have any right of recovery (whether based in tort, contract or otherwise) by way of subrogation or assignment or otherwise.

16. Non Delivery Conditions: We have no obligation to deliver to the extent that we are prevented from, delayed or hindered from delivering by any circumstances which are beyond our control. In each and every case, we have the right either to cancel or to postpone any delivery without any liability whatsoever.

17. Severability: If a court or regulatory agency of competent jurisdiction holds any provision of the Agreement to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect.

18. Governing Law; Entire Agreement: The law of the state where the delivery or service is provided governs the Agreement. Your application, the Propane Tank Ownership Confirmation Agreement and any records regarding equipment, these terms and conditions and any agreed renewal terms together constitute the entire agreement between us and together are the Agreement. These terms and conditions remain in effect until we issue new terms and conditions. Any statements not contained in the terms and conditions, your application, the installation record and any agreed renewal terms are not part of the Agreement.