



TOWN OF CHILMARK
CHILMARK, MASSACHUSETTS

TOWN OFFICES:
Beetlebung Corner
Post Office Box 119
Chilmark, MA 02535
508-645-2110 Fax

February 24, 2011

Mr. Heath Estrella
Vineyard Propane & Oil
P.O. Box 729
Vineyard Haven, MA. 02568

Subject: Chilmark Rental Duplexes

Dear Heath:

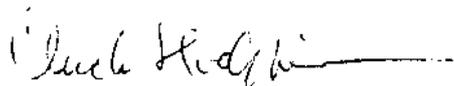
This provides the signed equipment lease contract for the propane service for Chilmark's three rental duplex buildings (total six apartments) that are under construction. Our plan is to have you install one 500-gallon underground tank for each of the three buildings. Each building will have two gas meters – one for each apartment. You will maintain, read the meters and invoice the tenants directly on a monthly basis. Please notice we are requesting one annual invoice for the lease cost. You may also invoice me directly for the installation cost which we understand will most likely be less than \$1,000 per building.

Here are a few facts for your consideration. The access road into the development off of Middle Linc Road is "Molly's Lane". Each of the six apartments has a separate street address and number as follows. We do not yet have mailing addresses or the names of the initial six tenants.

#2, #3 Beech Grove
#2, #3 Oak Grove
#2, #3 Holly Grove

The Town will have a management contract with the Dukes County Regional Housing Authority to operate and maintain the apartments for the Town. They will also oversee the tenant selection and turnover process. Please contact the on-site construction supervisor for Seaver Construction, Joe Doherty to coordinate the installations. He can be reached at 508-645-9519; cell 781-706-1261.

Thanks again for your help.


Chuck Hodgkinson

District # _____

Residential Propane Supply Agreement & Equipment Lease Service Application

The Town of Chilmark - Affordable Rental Duplexes

("Company") and

the undersigned ("Customer") will be in effect for a minimum term of five years or 1 year if not specified from the date it is entered into, and afterwards unless terminated by either party under the terms of this Agreement. This Agreement contains all of the terms of the Residential Propane Supply Agreement & Equipment Lease Service Application between the Company and the Customer. These terms will be subject to the individual laws of the state from which they were entered into and those laws will supersede any provisions of these terms that may run counter to those statutes.

Tim Carroll, Town of Chilmark for Equipment Lease Payments

508-645-2109

Customer 1	Home Phone	Work Phone	Cell Phone	Fax
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6 Apartment Tenants for Monthly Gas Invoices

Customer 2 (spouse)	Home Phone	Work Phone	Cell Phone	Fax
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#2, #3 Beech Grove; #2, #3 Oak Grove; #2, #3 Holly Grove	Chilmark	MA.	02535
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Installation Address Street	City	State	Zip Code
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Equip. Lease: Chilmark Town Hall; P.O. Box 119	Chilmark	MA.	02535
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Billing Address P.O. Box/Street/Apt#	City	State	Zip Code
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Terms & Conditions

Installation

1. The Company agrees to install and maintain propane storage tank(s), associated fittings and necessary metering and regulating equipment (the "Equipment") and associated fittings at the installation address indicated above ("the Premises"). The Company reserves the right to substitute a tank or cylinder of different size and capacity if Customer's propane usage changes or to remove the Equipment during periods of low or non-usage as stated in Paragraph #8 of this Agreement. If the Customer either sells or rents the Premises, Customer will notify the Company in advance of the sale and will notify the buyer or renter that the Equipment is owned by the Company. Once installed, all underground lines are owned by Customer who is responsible for all maintenance and compliance with all applicable laws, codes and regulations.

Equipment Rental, Ownership and Installation

2. The Company retains ownership of the Equipment which will remain personal property and will not become a fixture or a part of the Premises regardless of the manner in which it may be affixed or installed.

3. The Company may charge rent for the Equipment and the Customer agrees to pay all Equipment rental charges in accordance with the Company's Schedule of Charges.

4. The Customer will use only storage, regulating, associated fittings and metering equipment furnished by the Company in connection with the propane gas and the Equipment. The Customer will not remove or tamper with any of the Equipment.

5. When installing the Equipment, the Company will perform ordinary and reasonable safety checks of the Equipment and all exposed piping, fixtures and other items connected to the Equipment. The Company will not connect the Equipment until it is satisfied that no defects which are reasonably discoverable exist in the inspected items. The Company will not be liable for the damages caused by defects which are not reasonably discoverable when the installation inspection is performed, or which arise after the inspection is performed.

6. The Company will have an irrevocable right to ingress or egress over the Premises for the installation, maintenance, inspection, servicing or removal of the Equipment. The Company may without prior notice enter the Premises to deliver propane, to install, repair or service the Equipment, to remove without refund or credit to Customer a sample of propane in the tank or cylinder for quality assurance purposes, or to perform any other services that it deems necessary under this Agreement; or with reasonable prior notice, to remove the Equipment. Customer agrees to provide the Company with safe and unimpeded access to the Equipment free of ice, snow, water, mud, debris or other hazards. Customer acknowledges that failure to ensure safe and unimpeded access to the Equipment may cause an interruption in service. The Customer agrees that the Company shall have no obligation to contact Customer to request access to the Equipment, but instead may suspend service until customer has provided access as required by this Agreement. Customer agrees to promptly surrender the Equipment to the Company when this Agreement is terminated, regardless of the reason for termination.

7. The Customer is responsible and will pay the Company for any loss or damage to the Equipment while located on the Premises except for loss or damage caused by normal wear and tear.

8. The Customer agrees to purchase a minimum of two (2) times the capacity of the supplied tank(s) in any (12) month period. If not, the Company may charge the Customer a minimum annual requirement charge, increased tank rent or terminate this Agreement.

Propane Supply and Payment

9. The Customer agrees to purchase from the Company all their requirements of propane for the duration of this Agreement and to use the Equipment only for storage of propane purchased from the Company. The Company may remove the Equipment after thirty (30) days written notice to the Customer should the Customer not purchase their requirements of propane from the Company.

Termination of Agreement

10. The Customer may terminate this Agreement after expiration of the initial period stated above by giving the Company thirty (30) days written notice delivered or mailed to the Company. If Customer consists of two or more persons, all refunds issued will be made payable jointly to all listed account holders.

11. The Customer will be responsible for any removal charges associated with the removal of the propane tank(s). Customer will be responsible for any necessary excavation and landscaping associated with the removal of any of the Equipment, including supply tanks.

12. A tank removal charge may be charged and due from the Customer in the event the Customer terminates this Agreement before the end of the initial term stated at the top of the page. In addition to the tank removal charge, a cancellation charge of \$ _____ may be charged and due from the customer in the event the customer terminates this agreement before the end of the initial period stated at the top of this page. These charges may be waived if notice to the Company that the premises, if owned by the Customer, will be sold or that the premises, if leased by the Customer, will be vacated.

13. The Company may terminate this Agreement at any time for any of the following reasons:

- (a) Late payment of an account due to the Company;
- (b) Any tampering with the Equipment;
- (c) Customer's breach of any of the obligations under this Agreement or any other Agreement with the Company;
- (d) Notice to the Company that the Premises, if owned by the Customer, will be sold or, if leased to the Customer, will be vacated; or
- (e) Other just cause.

No notice shall be required to terminate this Agreement for the reasons specified in subparagraphs (a), (b), and (c) above and the Company shall be entitled in such cases to remove the Equipment immediately. In all other cases, termination shall be effective upon thirty (30) days written notice, delivered or mailed to the Customer's last known address.

Residential Propane Supply Agreement & Equipment Lease Service Application

14. Upon termination of this Agreement by the Company, the Customer agrees to promptly pay (a) all outstanding installation, propane gas, rental and late charges; and (b) all charges and costs incurred by the Company, including attorney fees and court costs, incurred by it to collect the amount owed by the Customer or to otherwise enforce this Agreement.

Further Conditions of Agreement

15. The Company shall have the right to file this agreement or such other document it deems appropriate in the Registry of Deeds in the County in which the Premises are located for the purpose of notifying prospective purchasers of the Premises of the existence of this Agreement, memorializing its ownership of the Equipment, and the right of the Company to enter the Premises as provided in this Agreement. The Customer agrees to enter into an easement agreement for the benefit of the Company as to the Premises upon the Company's request.

16. The Customer agrees to pay all personal property taxes and any other taxes, assessments or similar charges that may be levied on the Equipment while in the possession of the Customer.

17. If the Equipment includes an underground tank, the Company may, at its option, charge Customer an Underground Tank Buy-Out charge in the amount then in effect in the Company's Schedule of Charges in lieu of physically removing the tank from the Premises.

18. **LIMITATION OF LIABILITY.** Except as specifically provided in this Agreement, the Customer agrees that the Company will not be liable for any damages, including damage to plumbing, septic systems, bridges, driveways or landscaping at the Premises. This limitation applies whether a remedy is sought under contract, tort or product liability law. Customer's exclusive remedy for any loss sustained as a result of an interruption in service where the Customer's account provides for automatic deliveries is limited to actual damages of not more than \$10,000 for any loss or property damage. Customer agrees that the Company shall have no liability for damages of any type due to the loss of or injury to any of Customer's animals or livestock escaping the Premises. Customer further agrees that the Company shall have no liability for damages of any type for an interruption in gas service caused by the Customer's increased propane usage; replacement or addition of propane-powered appliances without prior notice to the Company; or the Customer's failure to provide continuous access to the Equipment.

19. Customer agrees that the Company will not be responsible for damages of any type caused by events or circumstances beyond its reasonable control, including with limitation, acts of God, fire, storms, floods, labor disputes, wars, hostilities, terrorism, compliance with law or regulations, the Company's inability to obtain propane from its customary suppliers, terminal, refinery or pipeline disruptions, allocation programs or lack of adequate transportation facilities.

20. Customer acknowledges that if the Premises should become a seasonal/vacation home which is not continuously occupied year-round, the Company cannot forecast deliveries due to unpredictable variances in usage and will not be able to provide propane on a keep-full basis. Customer acknowledges that it is their exclusive responsibility to monitor the propane usage and to provide the Company with seven (7) business days advance notice by which to make a delivery to prevent an interruption in service and that the Company will not be responsible for any damages that may result from an interruption including, but not limited to, personal injuries or damage of any kind to property caused by or related in any way to the exhaustion of the propane supply. If the Customer leaves the Premises unattended at any time during the year, Customer acknowledges that they must take special precautions to monitor the propane level in the supply tank.

Resolution of Disputes

21. Customer and the Company agree that, if either party requests, any dispute or controversy between the parties which in any way arises out of or relates to this Agreement or a prior agreement or the Company's provision of goods or services to Customer will be decided by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Upon a

sufficient showing that Customer cannot afford to pay for arbitration costs, the arbitrator may direct that the Company bear the costs of arbitration (not including attorney fees) that the arbitrator finds should not be borne by the Customer. Neither the Customer nor the Company shall be entitled to arbitrate joint or consolidated claims by or against other customers, or arbitrate any claim as a representative or member of a class or in or as part of a private attorney general capacity. Judgment upon any arbitration award shall be final and binding on Customer and the Company and may be entered in any court having jurisdiction. If a court of competent jurisdiction, or an arbitrator with authority to adjudicate the matter, should declare all or any part of this arbitration provision invalid or unenforceable, then the remainder of this arbitration provision shall be valid and enforceable to the fullest extent permitted by law. In the absence of this arbitration provision, you may have otherwise had an opportunity to litigate claims in court and/or to have claims decided by a jury. Within thirty days of receipt of this arbitration provision, Customer can elect to opt out of this provision (that is, exclude it from this Agreement) by sending a written notice to the Company by certified mail at 500 Meijer Drive, Suite 200, Florence KY 41042 Attn: Legal Department, stating that Customer wishes to opt out of this arbitration provision.

22. **SURVIVAL.** Paragraphs 2, 6, 9, and 18 shall survive termination of this Agreement.

Value of Equipment Installed by Company _____

Tank Capacity 500 Tank Serial # _____

Tank Capacity 500 Tank Serial # _____

Tank Capacity 500 Tank Serial # _____

Tank Capacity _____ Tank Serial # _____

Other Equipment _____

Equipment Fee of _____ Monthly

Month Due _____ Quarterly

Number of Regulators Installed _____ Semi-Annual

_____ Annual

By signing below I acknowledge that I have received both a copy of the Company's Schedule of Charges and a Consumer Information Packet.

CUSTOMER 
BY: Warren Doty-Board of Selectmen DATE: 2/23/11

COMPANY _____
BY: _____ DATE: _____