

Master Rack Sales Agreement

This Master Rack Sales Agreement # _____ (the "Agreement")
is entered into by and between Gavilon, LLC ("Seller") and _____ ("buyer").

Seller agrees to sell and deliver and Buyer agrees to buy and receive the following products in accordance with the Terms for General Rack Sales provided below.

This Agreement is expressly conditional upon Buyer satisfying Seller's credit requirements.

The then-current Gavilon, LLC General Terms and Conditions Applicable to Propane Sales Agreements are hereby incorporated and form a part of the Agreement.

Specific Terms for General Rack Sales

Quantity:	As available
Location:	As Requested and Approved
Product(s):	Propane
Price:	As negotiated
Payment Terms:	Net 10 Days from Receipt of Invoice
Term:	1 year
Cancellation:	30 Days written Notice

ACCEPTED AND AGREED TO ON: _____

Buyer: _____	Seller: Gavilon, LLC
_____	Attn: NGL Support Services
_____	1331 Lamar St, Suite 1650
_____	Houston, TX 77010

By: _____	By: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____

EXHIBIT A
Gavilon, LLC
General Terms and Conditions
Applicable to Propane Sales Agreements

WARNING! Propane has no odor; if the propane sold under this agreement is "odorized" or "stenched," it gets its odor from a chemical called ethyl mercaptan. When ethyl mercaptan is added to propane, the odor is usually effective to signal the presence of propane - which can burn or explode and cause injury or even death - but may not provide such a signal to every person in every case. The intensity of ethyl mercaptan's odor may fade over time. A person's sense of smell may be impaired (sometimes temporarily, when caused by a condition like a cold); these people may not be able to smell ethyl mercaptan. Sometimes people will get used to the odor after prolonged exposure to it, and will no longer notice it. Gas detectors certified by Underwriter Laboratories can be used as an extra measure of safety for detecting leaks. Detectors that emit a loud, shrill horn sound are for sale at reasonable prices. Buyer is strongly warned to make sure that its employees and customers are familiar with the facts described in this Warning. Buyer is strongly encouraged to contact Seller for more information about the odor of odorized propane and other considerations associated with the safe use and handling of propane

1. **PRECEDENCE:** These General Terms and Conditions Applicable to Propane Sales (the "General Conditions") are designed for use in transactions where Gavilon, LLC, or an affiliated company ("Seller") has agreed to sell, or cause to be sold, Product(s) (as defined herein) to a party which has agreed to purchase such Product ("Buyer"). These General Conditions will be deemed acceptable and agreed to by Buyer if Buyer begins performance of its obligations hereunder. Seller reserves the right to reissue these General Conditions at any time. Buyer and Seller may collectively be referred to herein as the "Parties", or individually as a "Party".

Prior to any liftings of Product by Buyer, Buyer will apply for and obtain (in Seller's sole discretion) credit from Seller. After satisfactory determination by Seller with respect to Buyer's credit and, Buyer and Seller shall enter into written "Sale Agreements" which will contain the agreement or contract date, reference number (if applicable), Product(s), parties, term, location(s) and/or any other terms and conditions. Each Sales Agreement will be furnished in writing by facsimile, email or other means upon finalization of an agreement. Unless otherwise agreed in writing, the Sales Agreement, together with these General Conditions, and any electronic or other communications governing price, location, and quantity will constitute the entire agreement between the parties (the "Agreement"). Where there is conflict between these General Conditions and the Sales Agreement, the Sales Agreement will govern.

These General Conditions cover propane products (collectively, "Product"). The availability of a particular Product will vary depending upon the terminal applicable to the transaction, and the inventory and allocation of Product at such terminal.

2. **REPRESENTATIONS AND WARRANTIES:**

- a. Seller represents and warrants to Buyer that:
 - (1) Upon delivery the Product conforms to the specifications for such products established by the applicable Product terminal;
 - (2) Seller has free and clear title to the Product manufactured and delivered under the Agreement; and
 - (3) Product shall be delivered free from lawful security interests, liens, taxes and encumbrances
- b. Buyer represents and warrants to Seller that:
 - (1) Buyer is knowledgeable and aware that the propane delivered hereunder are hazardous materials and that Buyer is sophisticated and knowledgeable of (i) the hazards and risks associated with such propane and (ii) the handling, receipt, transportation, storage and use of such propane
 - (2) Propane received hereunder shall be received in full compliance with all applicable federal and state laws, rules and regulations which may be applicable thereto; and
 - (3) Buyer is knowledgeable and aware that odorant loss, degradation or absorption may occur during the transportation and storage of propane and the resulting potential for lack of warning of propane presence.
- c. Except as set forth above, SELLER MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY OF PRODUCT OR OTHERWISE. THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE IS EXPRESSLY DISCLAIMED. IN NO EVENT SHALL SELLER OR SELLER'S SUPPLIER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT, CONTRACT OR OTHERWISE. Seller's liability with respect to lost, damaged or contaminated Product shall not exceed the price of the Product sold hereunder or the price of that portion of such Product on which liability is asserted.

3. **LOADING PRIVILEGES:** Loading privileges are granted by Seller to Buyer at requested terminals and confirmed through the issuance of loading numbers, but may be revoked by Seller at any time at its sole discretion. Any liftings by Buyer using these loading numbers will constitute an "Authorized Purchase". Any liftings on an account in which Buyer was not issued loading numbers by Seller will constitute an "Unauthorized Purchase".

4. **DELIVERY, PASSAGE OF TITLE:** Title and risk of loss, including without limitation, risk of damage, deterioration, and/or evaporation, shall pass from Seller to Buyer when the Product passes the flange or spout between the delivery line at the terminal and Buyer's or third party carrier's (whether hired by Seller or Buyer) receiving connection or equipment, whether truck or other receiving equipment. It is expressly understood that the passage of title and risk of loss as set forth above is not conditioned on the delivery or receipt of bills of lading or other equivalent documentation. When by an in-line propane transfer, delivery shall be deemed to have been completed upon execution of the order by the terminal. After completion of delivery of propane by the Seller, Seller shall not be liable to Buyer for reductions in quantity or degradation of quality of such propane in the hands of Buyer. Buyer agrees that, after delivery, the handling, care or use of propane shall be at Buyer's sole risk and expense.

5. **MEASUREMENT:** Measurement shall be done in the manner customarily utilized at the point of delivery in accordance with one of the following alternatives:

- a. On all deliveries into/out of tank cars, the quantity shall be determined by official tank car capacity tables, meters with no vapor return, or by weighing, in accordance with GPA Publication 8182, 8173 and all revisions thereof.
- b. On all deliveries into/out of transport and tank truck equipment, quantities shall be determined by meter with no vapor return, slip tube, rotary gauging device or weighing, in accordance with GPA Publication 8182, all appropriate GPA and API standards and all revisions thereof.
- c. On all deliveries into/out of pipelines, quantity shall be determined by turbine or positive displacement pipeline meter in accordance with API Manual of Petroleum Measurement Standards.
- d. Any turbine or positive displacement meters used for quantity determinations shall not allow vapor return.
- e. All quantities shall be corrected to 60 degrees Fahrenheit and equilibrium vapor pressure of the propane at 60 degrees Fahrenheit.
- f. Volume and compressibility correction factors shall be determined from reference API tables or computer programs used to generate these tables.

EXHIBIT A

6. **CLAIMS:** SELLER SHALL HAVE NO LIABILITY TO BUYER FOR ANY DEFECT IN QUALITY OR SHORTAGE IN QUANTITY OF PROPANE SOLD AND DELIVERED HEREUNDER UNLESS BUYER GIVES SELLER NOTICE OF BUYER'S CLAIM BY EMAIL OR FACSIMILE AND SELLER IS GIVEN AN OPPORTUNITY TO INSPECT THE PROPANE IN QUESTION PRIOR TO UNLOADING, OR IN CASE OF ANY LATENT DEFECT IN QUALITY, BUYER GIVES SELLER NOTICE THEREOF WITHIN SEVEN (7) DAYS AFTER THE PROPANE DELIVERY TO BUYER, SELLER SHALL HAVE NO LIABILITY FOR ANY DEFECT IN ANY PROPANE WHICH HAS BEEN COMMINGLED IN ANY WAY WITH PROPANE OBTAINED ELSEWHERE OR WITH A DIFFERENT PRODUCT, REGARDLESS OF WHERE OBTAINED. IT IS AGREED THAT ANY CLAIM ASSERTED BY BUYER UNDER THIS SECTION 6 UPON OR ARISING OUT OF AN ALLEGED DEFECT IN QUALITY OR QUANTITY OF THE PROPANE SHALL BE BARRED UNLESS ASSERTED BY BUYER BY THE COMMENCEMENT OF AN ACTION WITHIN ONE (1) YEAR AFTER THE DELIVERY OF THE PROPANE OR OTHER EVENT, ACTION OR INACTION TO WHICH SUCH CLAIMS RELATES.

7. **QUALITY:** All propane delivered under this Agreement shall meet the specifications for that propane, if any, set forth in the Sales Agreement. If no propane specifications are set forth in the Sales Agreement, all propane delivered under the Agreement shall meet the latest GPA specifications for propane. Any requirements of Buyer pertaining to the potential contaminants and/or specific hydrocarbon composition not set forth in the Sales Agreement or inconsistent with the latest GPA specifications must be identified by Buyer and allowable concentrations agreed to in writing by both parties prior to delivery.

8. **INSPECTION:** Unless otherwise specified or provided by Seller, Buyer shall provide gauging, sampling, and testing at no charge to the Seller. Each Party shall be entitled to have its representatives present during all loadings, unloadings, tests and measurements involving delivery of propane under this Agreement. Either Party may secure outside inspectors to perform gauging, sampling, and testing, in which event such inspector's determinations shall be conclusive and binding on the parties. Payments for such outside inspector's services will be paid by the Party who requested the services of such outside inspector, unless some other arrangement for payment is mutually agreed upon.

9. **TERMINAL ACCESS AND INSURANCE:** Each transport truck/tank carrier or agent appointed by Buyer (collectively, "Carrier") shall first be approved in writing by Seller and the applicable terminal(s), at their sole discretion, as a condition to terminal access. Such approval shall remain in effect until (i) revoked by Seller or the terminal at their discretion, or (ii) Seller receives written notice of revocation from Buyer. Buyer and each of its Carriers shall agree to Seller's standard terminal access agreement and/or the loading terminal's terminal access agreement prior to withdrawal of Product from the truck loading rack. Buyer and its designated Carriers shall comply with all applicable governmental and local authority regulations, the Seller's or the Seller's suppliers' regulations, all operating and safety procedures of Seller or the loading terminal, and any other requirements of whatever nature in force at the loading terminal. It shall be the absolute responsibility of the Buyer and each Carrier to acquaint itself, and comply with, the requirements of the loading terminal current at the relevant time. Notwithstanding anything to the contrary express or implied in the Agreement, if any Carrier nominated by the Buyer does not comply with the foregoing provisions or any of them, the Seller or the Seller's supplier may refuse to connect or load the Carrier in question.

Buyer shall cause its Carriers who will be accessing the loading terminal in connection with this Agreement to carry and maintain, at its sole expense, with reliable insurance companies acceptable to the loading terminal and authorized to do business in the state or area in which the loading terminal is located, at least the minimum insurance coverage as required by the loading terminal.

10. **PRICING:** Unless otherwise agreed by the Parties in writing, authorized purchases of all Products shall be set forth in the Sales Agreement. All pricing is exclusive of all taxes and fees, and are subject to the provisions of Section 19 hereof. Any applicable freight charges or costs in excess of those included in the price shall be at Buyer's expense.

11. **INVOICES AND TERMS OF PAYMENT:** Unless otherwise agreed to in writing, Buyer shall pay via ACH Debit all amounts as invoiced without discount, deduction, withholding, set-off, offsets or counterclaim of any kind in United States dollars on the tenth calendar day following date of lifting.

Seller shall have the right to assess finance charges against all past due amounts and all accrued but unpaid late payment charges, at the LIBOR rate as reported in the Wall Street Journal plus two percentage (2%) points, but not to exceed the maximum charges permitted by law. Buyer shall pay all of the Seller's costs (including attorneys' fees and court costs) of collecting past due payments.

When payment due date falls on a Saturday or on a weekday, other than Monday, which is not a banking day in New York, then any such payment shall be made on the nearest preceding New York banking day. When the payment due date falls on a Sunday or a Monday which is not a banking day in New York, such payment shall be made on the next following banking day.

12. **FINANCIAL RESPONSIBILITY:** Notwithstanding anything to the contrary in the Agreement, should Seller believe it necessary to assure payment, Seller may at any time require, by written notice to Buyer, either: (i) satisfactory security ("Security") in the form of an irrevocable letter or letters of credit at Buyer's expense in a form and from a bank acceptable to Seller to cover any or all obligations under the Agreement, or (ii) prepayment of the total estimated financial exposure under the Agreement. Any delay and any costs associated with such delay shall be for the account of the Buyer.

13. **DEFAULT AND TERMINATION:**

- a. A "Default" shall occur if Buyer (i) fails to pay any obligation or indebtedness to Seller or otherwise fails to comply with any credit terms imposed by Seller or fails to provide or maintain Security; (ii) fails to perform any other obligation to Seller and such failure remains uncured after fifteen (15) days following written notice thereof; or (iii) becomes the subject of any bankruptcy or insolvency proceedings.
- b. In the event of a Default by Buyer, then Seller, without limiting any other rights that may be available (whether under this Agreement, as a matter of law or otherwise), shall have the right, exercisable in its sole discretion and at any time or times, to liquidate all Sales Agreements and other transactions then outstanding by closing-out each such transaction being liquidated (whereupon they shall automatically be terminated, except for the payment obligation referred to below), calculating the Loss, if any, for each such transaction, and aggregating or netting such amounts and (at Seller's election) any or all other amounts owing under this Agreement to a single liquidated settlement payment that will be due and payable within one (1) business day after the liquidation is completed. "Loss" with respect to each transaction shall be the loss (or gain) to Seller as a result of the liquidation of that transaction including, without limitation, the cost of entering into a replacement transaction and of maintaining, terminating and/or reestablishing any hedge or related trading positions (and discounted to present value or bearing interest, as appropriate), in each case as determined by Seller in any commercially reasonable manner.
- c. In addition, after an Event of Default, Seller at its election (i) shall have a general right of setoff with respect to all amounts owing between the Parties (whether under this Agreement or otherwise and whether or not then due), provided that any amounts not then due shall be discounted to present value, and (ii) may withhold or suspend its obligations under this Agreement. After an Event of Default, Buyer is also responsible for any other costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by Seller in connection with such Event of Default.

EXHIBIT A

14. **FORWARD CONTRACT:** The Parties agree that each transaction entered into under this Agreement shall constitute a "forward contract" and that the Parties are "forward contract merchants" within the meaning of the United States Bankruptcy Code

15. **FORCE MAJEURE:** In the event either Party is rendered unable, wholly or in part, to perform its obligation under the Agreement (other than to make payments due hereunder) due to acts of God, floods, fires, explosions, extreme heat or cold, earthquake or storm, transportation difficulties, strikes, lockouts or other industrial disturbances, wars, acts of terrorism or sabotage, accident or breakage of equipment or machinery, failure of transporters to furnish transportation, failure of suppliers to furnish supplies, or any law, rules, order or action of any court or instrumentality of the federal or any state government, or for any other cause or causes beyond its reasonable control, it is agreed that on such Party's giving notice and full particulars of such force majeure to the other Party, the obligations of the Party giving such notice shall be suspended from the date of receipt of such notice and for the continuance of any inability so caused, but for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch. The term force majeure shall not apply to those events merely making it more difficult or costly for Seller or Buyer to perform their obligations hereunder. It is further agreed that at the conclusion of any force majeure event, neither Party shall have any obligation to the other with respect to any quantities of Product not delivered as a consequence of such force majeure event. No condition of force majeure shall operate to extend the terms of the Agreement.

16. **SUPPLY INSUFFICIENCIES; ALLOCATION:**

- a. In case of partial or total interruption or loss or shortage of transportation facilities or supplies, or shortage of Product deliverable hereunder, the Seller may allocate the available Product to the Buyer if the Seller does not have sufficient supplies of Product, storage or transportation to meet the full requirements of Buyer, its subsidiaries and affiliated companies or any of the Seller's customers. Seller may allocate its available supplies of Product on any basis which in the Seller's sole judgment is fair and reasonable, including, but not limited to, an allocation based on historical or planned deliveries. The shortage creating the need to allocate may be based on any of the following: an actual shortage of Product; a partial or total interruption of loss or shortage of transportation facilities or supplies; a shortage in a contemplated source of supply; or a general shortage in Seller's supply system (including the supply system of Seller's affiliates).
- b. If any such reduction occurs and continues for a period of thirty (30) consecutive days, Buyer, as its sole remedy, shall have the option to terminate the Sales Agreement by giving twenty (20) days' prior notice to Seller of Buyer's request to terminate the Sales Agreement (the "Termination Notice"), given within thirty (30) days of Seller's notice of allocation. Except as otherwise provided herein, such information shall be effective twenty (20) days following Seller's receipt of such Termination Notice. Notwithstanding the foregoing, Buyer shall not have the right to terminate this Agreement (a) in the event of allocations imposed on Seller by common carrier pipelines, or (b) if, within fifteen (15) days of its receipt of the Termination Notice, Seller advises Buyer in writing of its willingness to supply propane from an origin other than the origin specified in the Sales Agreement.

17. **INDEMNITIES:**

- a. Each Party shall indemnify, defend and hold the other, its agents and employees, harmless from claims, penalties, demands, and causes of action or other loss or liability (including reasonable attorneys' fees and legal expenses) asserted against the other (collectively, "Claims") by any other person (including, without limitation, employees of either Party) for personal injury, for loss of or damage to property, or for violations of law resulting from the acts or omissions of the indemnifying Party in connection with this Agreement. Buyer shall defend, indemnify, and hold Seller, its agents and employees, harmless against all Claims arising out of or related to any environmental matters including, but not limited to, storage tank leaks or spills, waste disposal or air emissions caused by or arising in connections with Buyer's acts or omissions under this Agreement, including but not limited to, Buyers loading, transportation, unloading, storage, handling, sale, or use of products sold hereunder, whether or not Buyer was negligent or otherwise at fault. Where personal injury, death, or loss of or damage to property is the result of the joint negligence or misconduct of the Parties hereto, the Parties expressly agree to indemnify each other in proportion to their respective shares of such joint negligence or misconduct. Provided, however, that in the case of indemnity by Seller, such defense, indemnification, and hold harmless obligations due from Seller shall not apply to Claims caused by: (A) Buyer's negligence or willful misconduct, or (B) defects in Product sold by Seller hereunder (other than defects attributable to any act of omission of Seller or Seller's employees or agents).
- b. In the event Buyer has access to a third party facility (including, without limitation, the loading terminal) in connection with this Agreement, Buyer's access may be exercised by Buyer's contractors or Carriers in which case Buyer shall be responsible for the acts or omissions of its contractors and Carriers. Buyer shall indemnify, protect and hold harmless Seller from Claims asserted against Seller due to the (A) acts or omissions, (B) failure to comply with laws or governmental regulations, or (C) failure to comply with the requirements and procedures of the loading terminal, by Buyers contractors or Carriers.
- c. Buyer's agreement to indemnify Seller shall not be negated or reduced by virtue of the denial of insurance coverage by Buyer's or Carrier's insurers of the occurrence or event which is the subject matter of the claims, and/or refusal to defend the insured or Seller. Seller shall have the right, but not the duty, to participate in the defense of any claim or litigation with attorneys of Seller's selection. Buyer's and Seller's obligation hereunder shall survive any termination of this Agreement.
- d. If the Product is delivered odorized, notwithstanding anything in this Agreement to the contrary, upon receipt from Seller of documentation of the required odorization, Buyer's indemnification obligation under this Agreement shall include, among any other claims, those comprising or asserting lack of or inadequate warning materials, improper amounts, use or type of odorant, "odorant fading," lack of warning on supplemental warning systems (such as gas detectors) and improper training or monitoring of Buyer's warning or training programs respecting odorization. If Buyer desires any Product delivered hereunder to be unodorized, Buyer must furnish an unstenched product request to Seller on a form acceptable to Seller's legal department.

18. **ASSIGNMENT:** Neither Party shall assign the Agreement without the written consent of the other Party, which consent shall not be unreasonably withheld.

19. **TAXES:** All taxes, duties, fees, dues or other charges (collectively "Taxes") now in effect or hereafter imposed or assessed by any federal, state, county or local government or agency with respect to or measured by the Product or the manufacture, transportation, storage, delivery, sale, receipt, exchange, inspection or use of the Product will be for Buyer's account. Upon receipt of invoice, Buyer shall reimburse Seller for any such taxes required to be collected or paid. If Buyer is exempt from any taxes, Buyer must provide Seller with proper exemption certificate(s) prior to lifting any Product. Failure to do so shall subject Buyer to payment of any such taxes, together with any applicable interest or penalties, and any consequential costs or fees imposed upon Seller as a result of such failure. Taxes shall not include the income taxes of either Party.

EXHIBIT A

20. **CONDUCT OF PARTIES' BUSINESS:** Each Party in the performance of this Agreement is engaged in an independent business and nothing herein shall be construed as giving either Party any right to control the other Party in any way in the performance of the other Party's business. Neither Party shall have any right to exercise control over any of the other Party's employees, representatives, agents or contractors of any level except to the extent of any safety requirements for delivery of propane under this Agreement. All employees representatives, agents or contractors of any level of a Party shall be entirely under the control and direction of that Party, which shall be entirely responsible for their action and omissions.
21. **GOVERNING LAW:** ANY CONTROVERSY, CAUSE OF ACTION, DISPUTE OR CLAIM (COLLECTIVELY REFERRED TO AS "CLAIMS") ARISING OUT OF, RELATING TO OR IN CONNECTION WITH THE AGREEMENT, OR THE BREACH, TERMINATION OR VALIDITY THEREOF, SHALL BE GOVERNED BY THE SUBSTANTIVE AND PROCEDURAL LAWS (EXCLUDING ANY CONFLICT -OF-LAWS, RULES OR PRINCIPLES WHICH MAY REFER THE LAWS OF THE STATE OF TEXAS TO THE LAWS OF ANOTHER JURISDICTION) OF THE STATE OF TEXAS SHALL APPLY. THE PARTIES SPECIFICALLY AGREE THAT THE SOLE JURISDICTION FOR ANY CLAIMS SHALL BE IN STATE OR FEDERAL COURTS LOCATED IN HOUSTON, HARRIS COUNTY, TEXAS.
22. **PRIOR AGREEMENTS SUPERSEDED; ENTIRE AGREEMENT:** No statement or agreement, oral or written, made prior to or at the signing of the Agreement, shall vary or modify the written terms hereof unless such modification is mutually agreed to in writing by an authorized officer or attorney-in-fact of both parties.
23. **WARNING:** The Material Safety Data Sheets and labels for propane delivered under this Agreement contain information regarding health risks and recommendations for the safe use and handling of propane. Buyer acknowledges and represents that it has received (or will request) and will read such Material Safety Data Sheets, the labels, or warnings and will seek clarification of any information contained in them to the extent necessary to enable Buyer, in its judgment, to understand the information contained in them. Buyer will exercise the degree of care necessary to protect all persons and property from all hazards disclosed in such Material Safety Data Sheets, labels or warnings. At a minimum, Buyer's obligations in this regard include (a) warnings the employees of Buyer and its Affiliates who may become exposed to such propane of its hazards; (b) taking measures to assure that such employees have appropriate safety equipment which is adequately maintained and properly used and that all precautions contained in Material Safety Data Sheets, labels and other warnings are followed; (c) warning third parties, including Buyer's customers, who may use or be exposed to propane of its hazards; and (d) requiring that the precautions described in such Material Safety Data Sheets, labels and other warnings are followed.
24. **UCC – TEXAS DECEPTIVE TRADE PRACTICES (CONSUMER PROTECTION) ACT:** The parties certify that they are not "consumers" within the meaning of the Texas Deceptive Trade Practices (Consumer Protection) Act, Subchapter E of Chapter 17, Sections 17.41, et seq., of the Texas Business and Commerce Code, as amended ("DTPA"). The parties covenants for themselves and for and on behalf of any successor or assignee that if the DTPA is applicable to a Contract: (1) the parties are "business consumers" as that term is defined in the DTPA; (2) OTHER THAN SECTION 17.555 OF THE TEXAS BUSINESS AND COMMERCE CODE, EACH PARTY HEREBY WAIVES AND RELEASES ALL OF ITS RIGHTS AND REMEDIES THEREUNDER AS APPLICABLE TO THE OTHER PARTY AND ITS SUCCESSORS AND ASSIGNS; and (3) EACH PARTY SHALL DEFEND AND INDEMNIFY THE OTHER PARTY FROM AND AGAINST ANY AND ALL CLAIMS OF OR BY THE INDEMNIFYING PARTY OR ANY OF ITS SUCCESSORS AND ASSIGNS OR ANY OF ITS OR THEIR AFFILIATES OR SUBSIDIARIES BASED IN WHOLE OR IN PART ON THE DTPA AND ARISING OUT OF OR IN CONNECTION WITH A CONTRACT.
25. **WAIVER:** No waiver by either Party of any breach of any covenants or conditions under the Agreement shall be construed as a waiver of any succeeding breach of the same or any other covenant or condition. This instrument cannot be modified in any way except by agreement of both Parties in writing. Such written agreement may be in the form of an exchange of telexes, faxes, email or similar transmissions.
26. **COMPLIANCE WITH LAWS:** During the performance of the Agreement, each Party agrees to comply with all laws, rules, regulations, ordinances and requirements of Federal, State and Local governmental or regulatory bodies (collectively "Laws") which are applicable to the Agreement, including, without limitation, all licensing requirements in the state where title transfers (if such licensing is required by the state) and all Federal, State and Local regulations for propane, as revised from time to time. Buyer shall be solely responsible for the determination of Buyer's duties under any Laws; provided however, that either Party may suspend its performance under this Agreement if, in that Party's reasonable judgment, the other Party is not or may not be in compliance with Laws.
27. **WAIVER OF FUTURE SUPPLY OBLIGATIONS:** The Parties specifically acknowledge and agree that these General Conditions are freely entered into and do not reflect or result from any legal obligation that either Party may have to the other Party to supply Products. Neither Party expects or desires that these General Conditions, any invoice issued by Seller or any other written agreement between the Parties relating to these General Conditions will form the basis of any future obligation of either Party to supply Products to the other Party. To the extent that any present or future laws or regulations may require any such supply obligation, each Party waives, in advance, any right it may now have or subsequently obtain to enforce any such obligation.