



## OIL PRICE PROTECTION PROGRAM TERMS & CONDITIONS FOR THE CAP PROGRAM

### **Supply of Heating Oil:**

The customer agrees that L.H. Gault & Son, Inc. d/b/a Gault, Inc. (Gault) is the sole supplier of heating oil and agrees to accept deliveries by automatic delivery from Gault. The customer agrees to pay all charges in full for services and oil upon receipt of invoice. The customer agrees that requests to top-off the oil tank are not permitted under any Price Protection Program.

### **Gault Heating Oil Supply Commitment:**

Gault, in accordance with Connecticut State Law, is required to purchase the required minimum futures oil contracts to enable it to make this contract.

### **Effective Contract Date:**

The customer agrees that this contract becomes effective when Gault has received and accepted your on-line program selection and payment of a non-refundable cap program enrollment fee. The customer in turn will receive acceptance of the "Cap" price program contract including confirmation number via email, or regular mail if necessary.

### **Stacking Oil Contracts:**

The customer agrees and understands that they can have a maximum of two (2) contracts which will become valid in the order of their contract authorization dates. Oil delivered under this contract will be delivered after the remaining gallons (if any) in a previous contract have been fully delivered. If the customer has an active contract with gallons remaining to be delivered that was created on or before April 1, 2009, then deliveries under this contract and the price reflected in this contract will take effect only when all gallons from your prior contract have been delivered or on August 1, 2009, whichever comes first.

### **Purchasing Gallons:**

The customer agrees to purchase a specific number of gallons. Gault requires that the customer purchase 75-100% of the customer's "annual estimated gallons" minus the remaining gallons to be delivered from a prior contract if any such gallons exist. If during execution of this contract, the customer enters an amount of gallons not within the allowable range, then the table above will display a minimum and maximum range of gallons that can be purchased.

### **Pricing Gallons:**

Customer agrees to purchase the contracted gallons at the contracted cap price per gallon above, unless the Gault daily retail price is below the cap price. In that case, the customer will be billed the Gault daily retail price. At no time under the duration of this contract will the customer be billed a price that is greater than the cap price stated above. The Gault daily retail price fluctuates based on global and local energy markets.

### **Contract Expiration:**

This agreement expires when all the contracted gallons are delivered. After the contract expires the Customer agrees to remain on automatic delivery of heating oil as supplied by Gault at Gault's Daily Price until such time as the Customer provides Gault with a written request to terminate deliveries. Written request may be by postal letter or email. Gault will notify the customer when they have

25% of the contracted gallons remaining in their contract via email to inform them that they are eligible to purchase oil for the next heating season.

**Gault Advantage:**

Gault highly recommends enrollment in the Gault Advantage Plan that evenly spreads your annual payments over a 12 month period. If you are not already on the Gault Advantage Plan, the on-line selection process will prompt you for simple enrollment after you have chosen your price program. If you are already on the Gault Advantage Plan, your monthly payment amount will be mailed to you on or about August 1<sup>st</sup> of each year.

**Force Majeure:**

The customer acknowledges that Gault may be prevented from supplying heating oil due to factors beyond the reasonable control of Gault. The customer agrees that Gault shall not be held liable for any failure to supply heating oil at the contracted price to the extent that any such failure is due to any such factors. Such factors include; 1) failure of public utilities, common carriers or suppliers to provide necessary raw materials, energy or other supplies or services to Gault 2) fires, explosions, floods, or other acts of God 3) war, civil commotion, riots, terrorism or labor unrest and 4) requirements of applicable federal, state, local or foreign governmental laws, rules, regulations, taxes or orders. Gault agrees that if it suspends supplying heating oil at the contracted price due to any such factor, it will make reasonable efforts to resume supplying heating oil at the contracted price as soon as possible.

**Limitations of Liabilities:**

Gault is not liable for any loss, damage, or expense to the customer including any general, special, incidental, or consequential damages the customer sustains and including any loss, damage or expense, even if due to the active or passive, sole, joint or several negligence of us and/or our agents, servants, employees, suppliers or subcontractors, including without limitation, loss, damage or expense.

**Waiver of Subrogation:**

Gault and the customer each hereby waive any and all rights of recovery against each other, including our officers, members, agents and employees, occurring on or arising out of this contract, the delivery of heating oil and any system maintenance or repair at customer's premises to the extent such loss or damage is covered by proceeds received from casualty, homeowners or other insurance carried by the other party. The party sustaining such loss shall have no right of recovery against the other party, or the agents, servants, or employees of the other party; and no third party shall have any right of recovery by way of subrogation or assignment or otherwise. Gault and the customer shall each indemnify the other party against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waiver. This mutual waiver shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in this contract with respect to any loss of, or damage to, property of the parties hereto.

**Assignment:**

This contract may not be assigned by the customer without the prior written consent of Gault.

**Integration Clause:**

This contract supersedes and replaces any contract or understanding, whether written or oral, between the customer and Gault with respect to the subject matter hereof.

**Modification:**

This contract may not be modified or amended except by the mutual written agreement of both the parties.

**Terms of Contract:**

This contract becomes valid with a signature on this Fixed Price Contract or with an electronic signature through Gault online services, or through a recorded telephonic agreement.

**Liquidated Damages:**

Gault, pursuant to Connecticut law, has incurred the cost of securing wholesale heating oil in order to make this offer to the customer. If the customer breaches this contract prior to any deliveries being made, or during the term of the contract, then the customer agrees to pay Gault for liquidated damages as follows: the forfeiture of the cap program enrollment fee plus \$.25 for every undelivered contracted gallon.

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