Kiva United Energy (Kiva), Account Application

The undersigned herein make a request for credit to bind the applicable individual person or applicable legal entity ("Company") that is seeking credit, and/or update and reconfirm the Company's existing account details. Company gives their express permission to Kiva, its employees or agents, to verify the information stated herein and the Company authorizes Kiva to perform any reasonable credit investigation deemed necessary in establishing and maintaining a credit account for the Company, including contacting financial institutions, credit bureaus or credit reporting agencies that have information regarding the assets and financial affairs of the undersigned. All information obtained will be treated as strictly confidential.

Person/Company Name (the "Company"):		Phone:	
Parent Company Name (if applicable):		Fax:	
Legally Registered Address:		Website:	
Company Prior Registered Address (if < 1 yr.):		Email:	
Financial Statements Available: ◯ Yes ◯ No			
Parent Address:			
Invoice Address (if different):			
Dun and Bradstreet Number:			
◯ Sole Proprietor ◯ Partnership ◯ Corporation/LLC		State of Incorporation:	
Date Business Commenced:		Federal ID#:	
Credit Limit Requested:		Purchase Orders: Requested: ◯Yes ◯ No	
People Authorized to Purchase:			
Banking Information **(Please provide bank issued transaction routing instructions)**:			
Bank Name:	Account #: Routing #:	Bank Contact:	
Bank Address:		Phone:	Fax:

Principals/Officers of Company

Name	Title	SS#	Own/Rent	Home Address

Company Suppliers

Vendor Name	Contact	Email	Phone	City	State

IMPORTANT TERMS: In consideration for the extension of credit, the undersigned acknowledges that they are authorized in their capacity to bind the applicable person or entity that is seeking credit ("Company"). **The authorized Company representative guarantees unconditionally the full and prompt payment of past, present and future obligations due and owed ("Payables") to Kiva by the Company and any successor in interest, corporate or non-corporate, in the Company's business.** The Company agrees to provide (if requested) personal and financial information, including, most recent financial statements or tax returns of the Company, along with periodic updates, to Kiva. The Company consents to the collection, use and disclosure of the information and documents provided by the Company for the purposes of (i) determining the Company's continuing financial status, and (ii) obtaining credit from Kiva, and (iii) taking action, where necessary, for collection of Payables in the event of Default (as defined within Kiva's General Terms and Conditions ("The GT&C's") by the Company. The Company further agrees to pay all bills rendered payable and due at the payment address shown on the invoice received by the Company 10 days from the date of the invoice. The Company understands and agrees that if the Company account is not paid within terms fixed by the invoice, a finance charge will be assessed at the prime rate at the Seller's bank plus four percent (4%) per annum or the maximum amount allowed by law from the date of the invoice, whichever is less. The Company understands and agrees that in the event this account is placed in the hands of an attorney for collection, the Company shall or shall cause the Company to pay all reasonable thirty party dues on collection of the principal, applicable interest and attorney's fees. **The Company further acknowledges that they have read and understand the current Sales GT&C's as set forth on Kiva's website at www.kivaenergy.com (as may be amended from time to time). The GT&C's in effect at the time applies to all purchases by the Company from Kiva. By signing and returning this application to Kiva, the Company agrees to be bound by such GT&C's without requiring Kiva to seek a Company signature on each Sales Agreement Confirmation and accompanied GT&C's.**

Signed _____ Title _____ Date_____

Price change notification via Email: ◯ Fax: ◯ Mail:			Contact	
Address (if different than above)		City	State	Zip
Delivery Locations				
Company Name			Contact	
Street Address		City	State	Zip
County	Tank Size	Phone	Fax	
Company Name			Contact	
Street Address		City	State	Zip
County	Tank Size	Phone	Fax	
Company Name			Contact	
Street Address		City	State	Zip
County	Tank Size	Phone	Fax	
Company Name			Contact	
Street Address		City	State	Zip
County	Tank Size	Phone	Fax	
Company Name			Contact	
Street Address		City	State	Zip
County	Tank Size	Phone	Fax	

Sales Tax Exemption Certificate

Person/Company:	
Address:	City, State:
Phone:	Fax:

Exemption Certification: Check appropriate exemption.

I am engaged in the business of:……

and any propane, butane or related tangible personal property as received from you will be purchased for use as follows:

◯ For resale as tangible personal property as received from you. I hereby certify that I hold a valid seller's permit #_____ issued on _____/_____/_____ by the state of _____.

◯ To be incorporated as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing or refining.

◯ Other: Describe exempt use and specific section of the sales and use tax act covering this exemption.

We further certify that if any property so purchased tax free is used or consumed by the Company as to making it subject to a Sales or Use Tax we (Company) will pay the tax due directly to the proper taxing authority when state law so provides or inform the seller for added tax billing which we will pay. This certificate shall be part of each order which we may hereafter give you unless otherwise specified and shall be valid until canceled by us in writing or revoked by the city or state.

◯ **We are not exempt from sales tax.**

Name _____

Signature_____ Title _____ Date_____

Guaranty

This **GUARANTY** is made and dated as of …….…….., 20 ..…. ("**Guaranty**"), by

…… ("**Guarantor**"),

an individual/corporation with a **mailing address** located at

……..., in favor and for the benefit of Kiva United Energy, Inc., with a business address located at 10281 S. State St. Sandy, UT 84070, United States ("**Guaranteed Party**").

For valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged by the Guarantor, the Guarantor hereby agrees in favor of the Guaranteed Party as follows:

1. **Guaranty**. Guarantor hereby unconditionally and irrevocably guarantees any and all obligations and indebtedness (collectively, **"Obligations"**) of

……**[NAME OF COMPANY]** **("Debtor"**) to Guaranteed Party, and waives any right whatsoever to require Guaranteed Party to first proceed against Debtor for payment in full as provided herein. Any amounts payable by the Guarantor under this Guaranty which are not paid forthwith upon demand therefore by the Guaranteed Party will bear the rate of interest specified in section 10(b) of Kiva's General Terms and Conditions, until said amounts are paid.

2. **Indemnity**. Guarantor hereby agrees to indemnify and hold harmless the Guaranteed Party from any losses, damages, liabilities, claims and related expenses incurred by the Guaranteed Party or asserted against the Guaranteed Party by any person arising out of, in connection with or resulting from this Guaranty or any failure of any Obligations to be legal, valid and binding obligations of the Debtor, enforceable against the Debtor in accordance with its terms.

3. **Amount**. The liability under this Guaranty is unlimited.

4. **Term**. This Guaranty will terminate automatically and immediately ninety (90) days after receipt by the Guaranteed Party of written notice to terminate this Guaranty (the "**Effective Termination Date**"); provided, however, that no such termination shall affect Guarantor's liability with respect to any Obligations created, incurred, contracted or assumed prior to the Effective Termination Date, which Obligations shall remain subject to this Guaranty.

5. **Nature of Guaranty**. The obligations of the Guarantor under this Guaranty are continuing, unconditional and absolute and shall not be affected by the existence, validity, enforceability, perfection, or extent of any margin, collateral or other credit support for the Obligations. The Guaranteed Party will not be obligated to file any claim relating to the Obligations owing to it in the event that the Debtor becomes subject to a bankruptcy, reorganization, or similar proceeding and the failure of the Guaranteed Party to so file shall not affect the Guarantor's obligations hereunder. In the event that any payment of the Debtor to the Guaranteed Party in respect of any Obligations is rescinded or must otherwise be returned to the Debtor or surrendered to any person for any reason whatsoever, whether before or after the Effective Termination Date of this Guaranty, then the Obligations or part thereof intended to be satisfied shall, for the purposes of this Guaranty, be reinstated or returned by the

Guaranteed Party, and this Guaranty shall continue to be effective as if such payment had not been made or value received notwithstanding any revocation thereof.

6. **Liability Absolute**. Without limiting the generality of the foregoing, the liability of the Guarantor will not be released, discharged, diminished, limited or otherwise affected by: (i) any extension, other indulgence, renewal, amendment, modification, execution, delivery, settlement, discharge, compromise, waiver, subordination or release in respect of any Obligation, security, person or otherwise, (ii) the invalidity, unenforceability or illegality, in whole or in part, of any agreements, instruments or other documents held by the Guaranteed Party to create, represent or evidence any Obligations, (iii) any change in the name, existence, structure, powers, business, constitution, objects, capital, constating documents, by-laws, control or ownership of the Debtor or any other person, (iv) any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Debtor or any other person or its assets, or (v) any other circumstances which might otherwise constitute, in whole or in part, a discharge of, the Guarantor, the Debtor or any other persons, firms or corporations in respect of the Obligations or the liability of the Guarantor.

7. **Representations and Warranties**. To induce the Guaranteed Party to (i) enter into the contracts for the purchase and sale of propane, butane, condensate and pentane (collectively, **"Agreements"**) with the Debtor from time to time and (ii) extend or continue any financial accommodations to the Debtor, the Guarantor represents and warrants to the Guaranteed Party that (i) there are no conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived., (ii) the Guarantor has full power and authority to execute, deliver and perform this Guaranty, to carry out Guarantor's obligations hereunder and to consummate the transactions contemplated hereby, (iii) if applicable, Guarantor is an adult individual of sound mind with the legal capacity to execute this Guaranty, (iv) the execution, delivery and performance of this Guaranty require no action by, or filing with, any governmental body or any court having jurisdiction over the Guarantor, (v) Guarantor has signed this Guaranty freely and voluntarily and not under duress or undue influence. Guarantor acknowledges that there has been no actions taken by the Guaranteed Party that are legally or procedurally unconscionable, no inequality of bargaining power or a fiduciary relationship between the parties, (vi) Guarantor has duly executed and delivered this Guaranty to the Guaranteed Party, and (vii) this Guaranty constitutes the legal, valid and binding obligations of the Guarantor, enforceable against the Guarantor in accordance with its terms.

8. **No Subrogation**. Notwithstanding any payment made by the Guarantor under this Guaranty or any set-off or application of funds of the Guarantor by the Guaranteed Party, the Guarantor will have no right of subrogation to, and waives, to the fullest extent permitted by law, any right to enforce any remedy which the Guaranteed Party now has or may hereafter have against the Debtor, until all of the Obligations have been irrevocably and unconditionally paid in full; and until that time, the Guarantor waives any benefit of, and any right to participate in, any security, whether real or personal property, now or hereafter held by the Guaranteed Party for the Obligations.

9. **Waivers of Defenses**. Guarantor hereby waives any defenses to enforcement of the Obligations that Guarantor may have now or in the future by reason of:

(i) any illegality, invalidity or unenforceability of any Obligation, Agreements or any other documents delivered pursuant thereto;
(ii) any change in the amount, time, place or manner of payment or performance of, or in any other term of the Obligations, or any waiver, release, assignment, amendment or other modification of Agreements or any other documents delivered pursuant thereto;
(iii) any default, failure or delay, willful or otherwise, in the performance of the Obligations;

(iv) notice of the execution and delivery by Debtor and Guaranteed Party of any other agreements giving rise to the Obligations arising under or in connection with Agreements;
(v) notice if the occurrence of any breach by Debtor or any event of default under Agreements;
(vi) any change in the name, object, capital, ownership or control, or constitution of the Debtor, any other guarantor or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Debtor, the Guarantor, any other guarantor or their assets or any resulting restructuring, compromise, release or discharge of any Obligations;
(vii) any merger, amalgamation, consolidation or other fundamental change of the Debtor or any other guarantor;
(viii) any failure of the Guaranteed Party to disclose to the Guarantor any information relating to the business, condition (financial or otherwise), operations, performance, properties or prospects of the Debtor now or hereafter known to the Guaranteed Party, and the Guarantor hereby waives any duty of the Guaranteed Party to disclose such information;
(ix) any defense, set-off or counterclaim (other than a defense of payment or performance) that may at any time be available to, or be asserted by, the Debtor against the Guaranteed Party;
(x) any other circumstance, act or omission that might vary the risk of the Guarantor or otherwise operate as a defense available to, or a legal or equitable discharge of, the Guarantor.

10. **Waivers of Notice**. Guarantor hereby waives (i) notice of acceptance of this Guaranty; (ii) notice of the creation or existence of any of the Obligations; (iii) notice of any action by the Guaranteed Party in reliance hereon or in connection herewith; (iv) presentment and demand concerning the liabilities of the Guarantor; (v) any right to require that any action or proceeding be brought against the Debtor or any other person, or to require that the Guaranteed Party seek enforcement of any performance against the Debtor or any other person, prior to any action against the Guarantor under the terms hereof; (vi) notice of the amounts or terms of the Obligations or of any amendments, modifications, renewals, replacements, or extensions thereof; (vii) notice of any extension of time for the payment of sums due and payable to the Guaranteed Party; (viii) with respect to any notes or evidences of indebtedness received by the Guaranteed Party from the Debtor, notice of presentment, demand for payment or notice of protest; (ix) notice of the Guaranteed Party's transfer, assignment or disposition of the Obligations, or any part thereof; and (x) notice of acceleration, any dishonor or default by, or disputes with, the Debtor. Except as to applicable statutes of limitation, no delay of the Guaranteed Party in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights or a release of the Guarantor from any obligations hereunder. The Guarantor consents and agrees that the Guaranteed Party and the Debtor may, without notice to or consent of the Guarantor, modify the Obligations or any Agreement between the Guaranteed Party and the Debtor, without in any way impairing or affecting this Guaranty or releasing or discharging the Guarantor from its obligations hereunder.

11. **Guarantor Acknowledgement**. The Guarantor further acknowledges and agrees as follows:

(i) The Guarantor hereby unconditionally and irrevocably waives any right to revoke this Guaranty and acknowledges that this Guaranty is continuing in nature, shall guaranty any ultimate balance owing to the Guaranteed Party, and applies to all presently existing and future Obligations, until the complete, irrevocable and indefeasible payment and satisfaction in full of the Obligations.
(ii) This Guaranty shall continue to apply to all Obligations owing to the Guaranteed Party by any amalgamated corporation resulting from the Debtor merging or otherwise amalgamating with one or more other corporations;
(iii) In the event the Debtor is a partnership, LLC or any other association, this Guaranty shall, notwithstanding any change or changes to the name or membership of the Debtor, extend to the person or persons who currently, and from time to time, carry on the business conducted by the Debtor; and

(iv) The Guarantor has read this Guaranty, understands it and agrees to be bound by its terms and conditions.

12. **Recourse against Debtor**. This Guaranty is a direct guaranty and independent of the Obligations of the Debtor to the Guaranteed Party. The Guaranteed Party may, at the Guaranteed Party's option, proceed against the Guarantor and the Debtor, jointly and severally, or against the Guarantor only without having first sought or obtained a judgment against the Debtor. The Guaranteed Party is not required to seek or exhaust its recourse against the Debtor, any other guarantor or other person or under any other securities or other guaranties before being entitled to payment from the Guarantor under this Guaranty.

13. **No Waiver by Guaranteed Party; Amendments**. No delay on the part of the Guaranteed Party in exercising any of its remedies, options, powers or rights, or partial or single exercise thereof, will constitute a waiver thereof. No waiver of any of the Guaranteed Party's rights hereunder, and no modification or amendment of this Guaranty, will be deemed to be made by the Guaranteed Party unless the same will be in writing, duly signed by the Guaranteed Party and the Guarantor, and each such waiver, if any, will apply only with respect to the specific instance involved, and will in no way impair the rights of the Guaranteed Party or the liabilities of the Guarantor to the Guaranteed Party in any other respect at any other time.

14. **Settlement of Accounts**. Any account settled or stated between the Guaranteed Party and the Debtor, or if any such account has not been so stated or settled prior to any demand for payment, any account stated by the Guaranteed Party, will be accepted by the Guarantor as *prima facie* evidence, subject to manifest error, that the amount thereby appearing due by the Debtor to the Guaranteed Party is so due.

15. **Assignment**. Any moneys or other property received by the Guarantor from the Debtor following a default in the payment or performance of any Obligation will be received in trust for, and will be paid over to, the Guaranteed Party. Any moneys received by the Guaranteed Party pursuant to this section, including moneys derived from instruments and any other property, may be applied against any Obligations or held by the Guaranteed Party as continuing security for the liability of the Guarantor or released to the Guarantor, all as the Guaranteed Party may see fit and without prejudicing or in any way discharging or diminishing the liability of the Guarantor.

16. **Set-off by Guarantor**. All payments to be made by the Guarantor hereunder will be made without set-off or counterclaim and without deduction, withholdings, restrictions or conditions of any nature whatsoever, unless and to the extent that the Guarantor shall be prohibited by law from doing so, in which case the Guarantor shall pay to the Guaranteed Party such additional amount as shall be necessary to ensure that the Guaranteed Party receives the full amount it would have received if no such deduction, withholding, restriction or condition had been made.

17. **Governing Law; Attornment**. This Guaranty will be governed by and construed in accordance with the laws of the State of New York. Without prejudice to the ability of the Guaranteed Party to enforce this Guaranty in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of any state or federal courts of competent jurisdiction sitting in Monroe County in the State of New York for the purposes of enforcing this Guaranty. To the extent legally permitted, each of the Guarantor and the Guaranteed Party waives any right it may have to, or to apply for, trial by jury in connection with any matter, action, proceeding, claim or counterclaim arising out of or relating to this Guaranty.

18. **Successors and Assigns**. The provisions of this Guaranty will be binding upon and enure to the benefit of the Guaranteed Party and its successors and assigns, and shall be binding upon the Guarantor and his or her heirs, executors, liquidators, administrators, personal representatives and assigns. The Guarantor may not, without the prior written consent of the Guaranteed Party, delegate or assign any of Guarantor's rights, powers

19. or obligations hereunder. The Guaranteed Party may assign this Guaranty and its rights hereunder without the consent of the Guarantor. Any purported assignment in violation of this Section shall be null and void. This Guaranty shall not be discharged or affected by the death or disability of the Guarantor, or any of them if more than one.

20. **Cumulative Rights**. The rights and remedies of the Guaranteed Party under this Guaranty are cumulative and are in addition to and not in substitution for any other rights and remedies available at law, in equity or otherwise.

21. **Time**. Time will be of the essence in this Guaranty.

22. **Severability**. Should one or more of the provisions contained in this Guaranty be held to be invalid, illegal or unenforceable for any reason or in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Guaranty, but this Guaranty shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the court or other tribunal making such determination is authorized and instructed to modify this Guaranty so as to effect the original intent of the parties as closely as possible so that the transactions and agreements contemplated herein are consummated as originally contemplated to the fullest extent possible.

23. **Notice**. All notices, demands, requests, offers, consents and other instruments and communications (collectively, "**Notice**") to be made or given pursuant to this Guaranty will be in writing and delivered personally or by mail or by transmittal by telecopier or other electronic means of communication addressed to the respective parties as follows:

If to Guaranteed Party:	If to Guarantor:
Kiva United Energy, Inc.	Name:……..….
	Address:……
Attention: Credit Department Email: credit@superiorplus.com	Email:……
Phone No.:(403) 476 0466	Fax No.:……

or to such other address or telecopy number as any party may from time to time notify the other in accordance with this Section 23. Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by facsimile shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours.

24. **Independent Legal Advice**. Guarantor (i) has received independent legal advice ("ILA") from his or her own lawyer at his or her own cost with respect to the terms of this Guaranty before its execution; or (ii) has been given the opportunity and encouraged to receive ILA, but has declined to do so (in his or her sole discretion). The Guarantor has read this Guaranty, understands it and agrees to be bound by its terms and conditions.

25. **Mutual Assent**. Each party acknowledges that this Guaranty is the product of their joint efforts, that it expresses their agreement, and that, if there is any ambiguity in any of its provisions, that provision should not be interpreted in favor of either one of them.

26. **Entire Agreement**. This Guaranty embodies the entire agreement and understanding between Guarantor and Guaranteed Party and supersedes all prior and contemporaneous agreements, representations, warranties and understandings, both oral and written, relating to the subject matter of this Guaranty. This Guaranty is in addition to and without prejudice to any security of any kind (including, without limitation, any guarantees, whether or not in the same form as this agreement) held by the Guaranteed Party.

27. **Electronic Signature**. A signed copy of this Guaranty delivered by facsimile, email or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Guaranty.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

"GUARANTOR"

By: _____

Its: _____

WITNESS

SIGNED, SEALED AND DELIVERED)

in the presence of:)

)

Signature:)

_____)

)

Print Name: