

Terms and Conditions of Supply

Residential bottled LPG

1. INTRODUCTION

1.1 These are the terms and conditions on which we agree to supply Gas and Equipment to you. By setting up an account for Gas supply with us, you agree to these terms and conditions for the supply of Gas. Capitalised terms used in this Agreement are defined in clause 12.

1.2 The effective date of this Agreement is the earlier of the delivery date of your first gas cylinder or the date that you set up an account with us.

1.3 We may make changes to this Agreement (including our Pricing) from time to time. We will notify you of any changes by giving you notice in writing at least two weeks before the changes come into effect. Such written notice may be included in an invoice sent to you under clause 5.2 of this Agreement. If we notify you of any such changes, you may terminate this Agreement by giving us written notice. Provided you give us such notice within two weeks of us informing you that the Agreement terms have changed, we will not invoice you on the basis of the amended Pricing fees and charges and our changes to this Agreement will have no effect. This Agreement will terminate two weeks after the date on which we receive your written notice.

2. EQUIPMENT

2.1 We will deliver the Equipment to you and you will pay us the Equipment Charge for the use of the Equipment. The Equipment Charge is a minimum charge per annum for the rental of up to two 45kg cylinders, is payable in full in advance at the beginning of each 12-month period of this Agreement, and is non-refundable within the first year of this Agreement.

2.2 The Equipment will remain our property at all times and you agree not to sell, rent, encumber, transfer to another property, or otherwise do anything prejudicial to our title in the Equipment without our prior written consent. You will only use the Equipment to store and dispense Gas supplied by us.

2.3 You will keep the Equipment safe, in good condition and on the Property. You will notify us of any damage to the Equipment and will not undertake any work on the Equipment except where authorised by us. You will pay us the full replacement or repair costs in respect of any lost or damaged Equipment (except where we have caused the loss or damage).

2.4 We may come onto the Property to inspect the Equipment at any time, provided we give you reasonable notice. You agree that we may take photos of the Equipment and the gas installation where we consider it reasonably necessary in connection with this Agreement. We will normally only access the Property during business hours. However, in an emergency you must give us access immediately at any time if required.

3. DELIVERY AND RISK

3.1 We will use our reasonable endeavours to deliver the Gas to you within 5 working days of receiving your instructions. Deliveries will be made during normal business hours unless otherwise agreed with you.

3.2 If urgent delivery is required within 24 hours or outside our usual business hours, we will consider all requests and if we are able to deliver, we will do so. You agree to pay us a fee (in accordance with our current delivery rates) for any urgent deliveries or deliveries outside our usual business hours.

3.3 You must provide us with safe and unobstructed access to the Property (including keeping any dog or other potentially dangerous animal secured) to enable delivery of the Gas and Equipment. You may be charged an additional fee if the Property does not meet our normal delivery conditions.

3.4 Gas is deemed to have been delivered to the Property when the Equipment containing Gas is unloaded at the Property, and risk in the Equipment (including the Gas) passes from us to you upon delivery.

3.5 We will have no obligation to deliver Gas to you if we reasonably consider your Property is unsafe for delivery or if you do not have a current and valid gas safety certificate and site location test certificate (if required) as set out in clause 4.2.

3.6 We will be under no obligation to deliver Gas to you if and for so long as you are in default of any obligation under this Agreement.

3.7 Risk in the Equipment (including any Gas contained in such Equipment) will pass back to us when we collect the Equipment. You will not be entitled to any refund for any Gas remaining in such Equipment.

3.8 You must not resell any Gas that you purchase from us.

4. SAFETY

4.1 You will use the Gas and Equipment in a manner which complies at all times with any relevant laws and regulations. You agree that we may suspend delivery of Gas at any time, and will not be liable to you in any way for doing so, if we think the Property is unsafe or if we consider that the delivery conditions at the Property represent a hazard to our delivery drivers.

4.2 You will ensure that your current gas installation has been certified by a registered gasfitter in accordance with regulations under the Gas Act 1992, and provide us with reasonable proof of this if requested by us. If you store more than 100kgs of Gas (for example, if you have more than the standard two 45kg cylinders) on the Property, you must obtain a current location test certificate in accordance with the Hazardous Substances and New Organisms Act 1996 and associated regulations.

4.3 You will use all Gas and Equipment in a safe and prudent manner, notify us immediately if you suspect any defect in the Equipment (such as an unintended escape of Gas from the Equipment) and not relocate, remove or tamper or interfere with any Equipment.

5. PRICES AND PAYMENT

5.1 You will be charged for the Gas supplied by us in accordance with the Pricing as advised in our communication to you. All fees and charges are inclusive of GST and any ETS Liability unless otherwise specified.

5.2 You will receive a monthly tax invoice (in accordance with the Goods and Services Tax Act 1985) for our charges for the Gas supplied to you. Our invoice may also include the annual Equipment Charge, where that amount is due in accordance with clause 2.1. Please note that you will not receive an invoice for Gas supplied to you if there have been no deliveries since the previous invoice and your previous invoice has been paid in full. The invoice may be sent to you by us or a third party, and will specify the ways in which you can pay the amount owing by you to us.

5.3 You must pay the total amount contained in any invoice sent to you without deduction or set off of any kind on, or before, the 20th of the month following the date on which we issued that invoice. We may at any time require immediate payment from you (without formal demand) if we in our discretion consider you to be a credit risk.

5.4 In some circumstances, we may require you to pay a deposit before we supply you with Gas. This deposit will be held against the non-payment of future invoices and

will be used to clear any final invoice. Any credit will be refunded to you by cheque on the termination of this Agreement.

5.5 Without prejudice to our other rights and remedies (including the right to terminate this Agreement), we may charge you for: a) Interest on all sums outstanding from the due date until full payment is received on a daily basis at a rate of 2.5% per annum above RBNZ's 90 day bank bill rate; b) All costs incurred by us in recovering payment from you, including (without limitation) all debt collectors' fees or commissions, legal fees and disbursements and our administration costs.

5.6 If you do not pay an invoice by its due date, then (without prejudice to our other rights and remedies) we may stop supplying Gas to you.

6. TERM AND TERMINATION

6.1 Except as set out in clause 1.3, you may terminate this Agreement at any time by giving us three weeks written notice. In your notice, you must also give us your new forwarding address so that we may contact you for any outstanding credits or amounts owing.

6.2 We may terminate this Agreement at any time by giving you two weeks written notice. We may terminate this Agreement immediately upon notice to you if you: a) Fail to pay any money payable to us under this Agreement by the due date for payment; or b) Tamper or interfere with any of the Equipment or breach any other terms of this Agreement.

6.3 You agree that upon termination of this Agreement you will not be entitled to any refund for any partially used cylinder. You also agree that you will not be entitled to any refund (in whole or in part) of the Equipment Charge (unless you have punctually performed all of your obligations under this Agreement for a continuous period of at least one year immediately prior to termination) and will: a) Pay us for all amounts owing by you to us under this Agreement; and b) Allow us to immediately enter the Property and collect the Equipment.

6.4 If you move house or leave the Property permanently, you must give us at least three weeks written notice prior to vacating the Property. This time allows us to either make arrangements with you in respect of your new property and with the new owner of the Property or to terminate this Agreement.

7. LIABILITY

7.1 Your liability to us, and our liability to you, under or in connection with this Agreement, whether as a result of any breach of this Agreement or on any other ground or basis (including liability as a result of negligence) will be limited to \$1,000. This limitation on liability does not limit: a) your liability under clause 7.3; or b) any liability which is not capable of being limited under applicable legislation, including our liability to you under the Consumer Guarantees Act and Fair Trading Act.

7.2 We are not liable to you for consequential losses, indirect losses, loss of profits or similar claims, except that this does not exclude any liability we have to you for such losses under the Consumer Guarantees Act and Fair Trading Act.

7.3 You indemnify us in respect of all claims, demands, actions, suits, proceedings, damages, losses and expenses of any nature, arising out of or in connection with any damage or loss to any third party caused by you or the Gas and/or Equipment while they are in your possession, or any negligent acts or omissions by you.

7.4 Neither of us will be liable to the other for any loss or damage arising from an event beyond our control and which prevents us from carrying out our responsibilities under this Agreement. An event or cause beyond our control includes, but is not limited to, acts of God, war, earthquake, lightning, storm or other similar event.

8. COMPLAINTS

If you have a complaint, please call 0800 84 12 12 or email enquiries@ongas.co.nz to access our free complaints process. If we cannot resolve your complaint, you can contact Utilities Disputes Limited on 0800 22 33 40 or go to www.utilitiesdisputes.co.nz. Utilities Disputes is a free and independent service for resolving complaints about utilities providers.

Please note that more information about complaints can be found on our website at: www.ongas.co.nz/faq

9. PRIVACY ACT

You agree to provide all the information we reasonably require. In the event that any personal information (as defined in the Privacy Act 1993) regarding you is disclosed to us under or in relation to this Agreement, the use, disclosure and security of that information (and your access to it) will be as set out in our privacy policy which can be found at www.ongas.co.nz/faq

10. NOTICES

Invoices, notices or other communications will be delivered to your Property, or sent to your last known physical or postal address, your most recently provided email address or by other electronic means. An invoice, notice or other communication will be deemed to have been received as follows: • If delivered to your Property, when so delivered. • If sent by mail, on the third working day after posting. • If sent by email or other electronic means, at the time sent by us.

11. GENERAL

11.1 Where you comprise more than one person, each person is jointly and severally responsible for complying with this Agreement.

11.2 No delay or failure to act is a waiver. No waiver is effective unless it is in writing. A waiver of a breach is not a waiver of any other breach.

11.3 This Agreement constitutes the entire agreement between you and us in respect of its subject matter and supersedes all prior negotiations, representations and agreements between you and us.

11.4 You may not transfer or assign any of your rights or responsibilities under this Agreement without our written agreement. We may assign or novate any of our rights and obligations under this Agreement, at any time, to any related company of ours or any purchaser of all or part of our business, without your prior written consent. Notice of the transfer will be given to you either in writing or by Public Notice.

12. DEFINITIONS

"Agreement" means your agreement with us for the supply of Gas to your Property on these terms and conditions as amended from time to time.

"CCRA" means the Climate Change Response Act 2002.

"Equipment" means the gas cylinder(s) and any other gas supply equipment supplied to you by us.

"Equipment Charge" means the cylinder rental fee for the Equipment set out in your Pricing.

"ETS Liability" means the cost (excluding GST) to us attributable to a participant's liability to surrender units under the CCRA, whether incurred directly from the participant or indirectly via our other suppliers, in respect of the Gas supplied under this Agreement.

"Gas" means liquefied petroleum gas which complies with NZ Standard 5435 (as subsequently modified).

"GST" means Goods and Services Tax payable pursuant to the Goods and Services Tax Act 1985.

"Pricing" means the fees and charges as set out in the Welcome Pack, or any other communication that you receive from us, including any amendments to those fees and charges.

"Property" means the property to which we will deliver Gas under this Agreement as provided by you when you set up an account and confirmed by us in the Welcome Pack.

"Public Notice" means notice in your local newspaper.

"you" and "your" means the customer who has set up an account with us for the supply of Gas to the Property.

"we", "us" and "our" means On Gas Limited, including our agents and contractors and the provisions of this Agreement are for the benefit of and are intended to be enforceable by On Gas Limited and each of our agents and contractors.

"Welcome Pack" means the "Welcome to OnGas – Bottled Gas supply Terms and conditions" brochure, which you hereby acknowledge receipt of, or any brochure or other document in substitution for that brochure, and any accompanying material that you receive from us.

A reference to any legislation or regulation is a reference to that legislation or regulation as amended, supplemented, replaced or superseded from time to time.