

## 1. Introduction

- 1.1 These are the terms and conditions on which Coast 2 Coast Gas Company (Northland) Limited agrees to supply LPG and Equipment to the Customer.
- 1.2 The effective date of these terms and conditions is the earlier of the delivery date of the first LPG cylinder or of the first LPG supply.
- 1.3 Definitions used for the purposes of these terms and conditions of supply:
- “**Agreement**” means these Terms and Conditions and the previous page;
- “**Customer**” means the customer party to this Agreement;
- “**Equipment**” means the LPG cylinder(s) and any other LPG supply equipment supplied to the Customer by the Supplier;
- “**LPG**” means Liquefied Petroleum Gas supplied to the Customer by the Supplier;
- “**Supplier**” means Coast 2 Coast Gas Company (Northland) Limited;
- “**Property**” means the property to which the Supplier will deliver LPG and Equipment under this Agreement as set out in the first page of this Agreement or any other property agreed by the parties.
- 1.4 The Supplier may make changes to this Agreement (including to pricing) at any time and from time to time. The Supplier will notify the Customer of any changes by writing to the Customer at least two weeks before changes come into effect (the Customer acknowledges and agrees that such written notice may be included in an invoice sent to the Customer under Clause 6.2 of this Agreement). The Customer agrees to accept those amendments by the making of or receipt of any order or delivery after the date of the notice.
- 1.5 Notices and invoices under this Agreement will be delivered to the Customer’s Property or mailed or sent to the Customer’s last known physical or postal address or emailed to the Customer at the email address notified by the Customer.

## 2. Equipment

- 2.1 The Supplier will deliver the Equipment to the Customer and the Customer will pay the Supplier for rental for the use of the Equipment. The rental is an annual sum payable in advance at the beginning of each 12-month period of this Agreement.
- 2.2 The Equipment will remain the Supplier’s property at all times. The Customer may not sell, rent, charge, transfer or part with possession of the Equipment or create a security interest in the Equipment under the Personal Property Securities Act 1999 without the Supplier’s prior written consent. The Customer must keep legible and visible all trademarks and signs of the Supplier on the Equipment.
- 2.3 The Customer will keep the Equipment safe, in good condition and on the Property. The Customer will notify the Supplier of any damage to the Equipment and will not undertake any work on the Equipment except where authorised by the Supplier. The Customer will pay the Supplier the full replacement or repair cost in respect of any stolen, lost or damaged Equipment (except where the Supplier have caused the loss or damage).
- 2.4 The Supplier may come into the Property to inspect the Equipment at any time, provided the Supplier gives reasonable notice. Normally, the Supplier will only access the Customer’s Property during business hours. However, in the case of an emergency the Customer will need to allow the Supplier immediate access, if required.
- 2.5 Except as allowed under clause 2.6 the Customer will not refill or allow the refilling of the Equipment or let the Equipment be used otherwise than for storage, transport or use of LPG placed in the Equipment by the Supplier.
- 2.6 If the Supplier are unable to supply LPG, the Customer may use the Equipment for handling LPG obtained from another source, provided that the Customer notifies the Supplier in advance. The Supplier will have no liability whatever in relation to any such supply and the Customer will indemnify the Supplier against all claims, costs, expenses or liabilities resulting from such supply.

## 3. LPG Supply

- 3.1 Subject to clause 3.2, the Supplier will supply such LPG as the Customer reasonably requires into the Equipment. The Customer agrees to buy all its requirements of LPG for the Customer’s Property from the Supplier.
- 3.2 The Customer will not hold the Supplier liable for any loss or damage if the Supplier are unable to supply LPG to the Customer for a reasons beyond the Supplier’s control. The Supplier may ration the Supplier’s available supplies of LPG if there is likely to be a supply shortage of LPG.
- 3.3 The Supplier will supply LPG into the Customer owned gas cylinders and storage vessels considered suitable by the Supplier only by special arrangement with the Customer. Such supply is subject to gas cylinder and storage vessel examination and testing, when necessary, in accordance with the Supplier’s procedures and applicable statutory requirements at the Customer’s cost.
- 3.4 The Customer will not use the Equipment to decant LPG into other containers, and will not on-sell, distribute or otherwise transfer any LPG supplied by the Supplier.

## 4. Safety

- 4.1 The Customer will use the Supplier’s LPG and Equipment in a manner which complies at all times with any relevant laws and regulations and with any instructions and Material Safety Data Sheets provided by the Supplier. The Supplier may suspend delivery of LPG at any time, and will not be liable to the Customer in any way for doing so, if the Supplier think that the Property is unsafe or if the Supplier consider the delivery conditions at the Property represent a hazard to the Supplier’s delivery drivers.
- 4.2 The Customer will ensure that the Customer’s current LPG installation has been certified by a registered Gasfitter in accordance with regulations under the Gas Act 1992 (and provide the Supplier with reasonable proof of this if requested by the Supplier). If the Customer stores more than 100kgs of LPG (for example has more than the standard two 45kg cylinders) on the Property, the Customer must obtain a current site location certificate in accordance with the Hazardous Substances and New Organisms Act 1996 and associated regulations.

- 4.3 The Customer will use all LPG and Equipment in a safe and prudent manner, notify the Supplier immediately if the Customer suspect any defect in the Equipment and not relocate, remove or tamper or interfere with any Equipment.
- 4.4 The Customer will ensure that reasonable and safe access is provided to facilitate the delivery of the Equipment and the LPG.

## **5. Delivery, Risk and Title**

- 5.1 The Supplier will use the Supplier's reasonable endeavours to deliver the LPG to the Customer within 5 working days of receiving the Customer instructions. Deliveries will be made in normal business hours unless otherwise agreed with the Customer.
- 5.2 If urgent delivery is required within 24 hours or outside the Supplier's usual business hours, the Supplier will consider all requests and if the Supplier are able to deliver, the Supplier will do so. the Customer must pay the Supplier a fee (in accordance with the Supplier's delivery rates) for any such urgent delivery or deliveries outside the Supplier's normal business hours.
- 5.3 The Customer must provide the Supplier with safe and easy access to the Property (including keeping any dog or other dangerous animals under control) to enable delivery of LPG and Equipment. The Supplier may charge the Customer an additional fee if delivery is delayed or impeded by unsafe or problematic access to the Property.
- 5.4 LPG is deemed to have been delivered at the earlier of the time when the LPG Cylinders are unloaded at the Property or when the LPG passes into the hose connection at the filling point of the Equipment at the Property, and property and risk in the LPG passes from the Supplier to the Customer upon delivery.
- 5.5 The Supplier's weights, records and measurements will be accepted as prima facie evidence of the quantities of LPG and Equipment delivered to the Customer. The Supplier's delivery note will be conclusive evidence as to the LPG and Equipment delivered.
- 5.6 The Supplier will be under no obligation to deliver LPG to the Customer if and for so long as the Customer is in default of any obligation under this Agreement (including payment of any amount owing by the Customer to the Supplier plus any interest charged).
- 5.7 Risk in the Equipment (including any LPG in any such Equipment) will pass back to the Supplier when the Supplier collect the Equipment.

## **6. Prices/Fees and Payment**

- 6.1 Unless the Supplier has agreed otherwise with the Customer in writing, the Customer will be charged for the LPG accordance with the price at the time of delivery notified from time to time by the Supplier to the Customer.
- 6.2 Each month, the Customer will receive an invoice for the Supplier's charges for LPG unless, as at the date that such invoice would otherwise be issued, there has been no activity on the Customer account under this Agreement since the period covered by the previous tax invoice sent by the Supplier to the Customer under this Agreement.
- 6.3 All monies owing by the Customer to the Supplier must be paid in full without deduction or set off by Direct Debit payment on the due date on the Customer's invoice (being the 20th of the following month). These monies may include any rental for the Equipment invoiced pursuant to Clause 2.1 and any other fees invoiced and payable under this Agreement. Prior to the first delivery of Equipment or LPG to the Customer, the Customer must provide to the Supplier a Direct Debit Authority for payment of the Equipment Service Charge and for the Supplier's LPG and must ensure a valid Direct Debt Authority remains in place during the term of this Agreement.
- 6.4 Where the Customer fails to pay an amount due to the Supplier for the LPG and/or the Equipment Service Charge it shall pay the Supplier interest on the amount unpaid at the overdue interest rate notified in writing by the Supplier to the Customer from time to time including any notice of the overdue interest rate set out in any invoice issued by the Supplier.
- 6.5 The Customer shall reimburse to the Supplier all costs fees, expenses and/or commissions incurred by the Supplier in collecting any payment which is overdue by the Customer (including but not limited to all legal costs on a solicitor/client basis and all collection agency costs incurred).
- 6.6 The Supplier may at its discretion and by notice in writing to the Customer, require payment of the LPG prior to delivery.

## **7. PPSR**

- 7.1 For the purposes of this clause 7, "PPSA" means the Personal Property Securities Act 1999 as amended from time to time.
- 7.2 To the extent that provision by the Supplier of the Equipment to the Customer is a 'lease for a term of more than one year', the Customer acknowledges that this is deemed to create a security interest in favour of the Supplier over the Equipment under the PPSA.
- 7.3 The Customer grants a security interest to the Supplier in all LPG supplied by the Supplier to the Customer and the proceeds of that LPG. On the Supplier's request, the Customer will provide the Supplier with any information the Supplier may reasonably require to register a financing statement pursuant to the PPSA.
- 7.4 Ownership of the LPG delivered in the Equipment will only pass from the Supplier to the Customer upon payment by the Customer of all the LPG in that Equipment and until such payment, all the LPG in that Equipment may be repossessed by the Supplier. The Customer's consumption of LPG in the Equipment will be deemed to have occurred first from Equipment in which the LPG is owned by the Customer. If the Customer does not pay any money due to the Supplier or if the Customer intimates that the Customer will not or cannot pay any money yet to become due to the Supplier, the Supplier will not be obliged to deliver the LPG to the Customer and the Supplier may repossess the LPG owned by the Supplier and the Equipment containing such the LPG.
- 7.5 The Customer waives it rights under the PPSA to:
- (a) receive a copy of any verification statement;
  - (b) receive a copy of any financing change statement;
  - (c) receive any notice that the Supplier intends to sell the LPG or retain LPG on enforcement of the security interest (as defined in the PPSA) granted to the Supplier under these terms;

- (d) object to the Supplier proposal to retain the LPG in satisfaction of any obligation owed by the Customer to the Supplier;
- (e) receive a statement of account on sale of the LPG;
- (f) redeem the LPG; and
- (g) where any Equipment becomes an accession, as defined in the PPSA, not apply to the court for an order concerning the removal of the accession, receive notice of removal of the accession and not have any Equipment damaged when the Supplier removes the accession.

7.6 The Customer agrees to:

- (a) do anything that the Supplier reasonably requires to always ensure that the Supplier has a continuously perfected security interest over the Equipment and the Supplier's LPG; and
- (b) reimburse the Supplier for all costs and/or expenses incurred or payable by the Supplier in relation to registering, maintaining, or releasing any financing stated under this Agreement.

## 8. Liability and Exclusions

8.1 Where the Customer is acquiring the Equipment or the LPG for the purposes of a business:

- (a) the Supplier shall not be liable to the Customer, or to anyone else for any breach of this Agreement for any expenses, losses or damage (whether foreseeable or not) to the Customer, other persons or to any property; and
- (b) to the extent the Supplier is liable to a Customer, the Supplier's liability will (to the extent permitted by law) be limited to the price paid by the Customer for the LPG and Equipment supplied by the Supplier which gave rise to the claim
- (c) It is agreed that because the Customer and Supplier are engaged in trade, the provisions of the Fair Trading Act 1993 ("FTA") shall not apply. It is further agreed pursuant to section 5D of the FTA, that this exclusion is reasonable.

8.2 To the extent permitted by law, the Supplier is not liable for consequential losses, indirect losses, loss of profits or similar claims.

8.3 To the extent permitted by law, the Supplier is not liable for any loss or damage arising from an event beyond the Supplier's control and which prevents the Supplier from carrying out the Supplier's responsibilities under this Agreement.

8.4 The Customer indemnifies the Supplier 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 the actions or inaction of the Customer in respect of the LPG and/or Equipment while they are in the Customer possession.

## 9. Termination

9.1 The Customer may terminate this Agreement at any time in writing or by contacting the Supplier.

9.2 The Supplier may terminate this Agreement at any time by giving the Customer 7 days written notice. The Supplier may terminate this Agreement immediately and without notice if the Customer:

- (a) fails to pay any money payable to the Supplier under this Agreement by the due date for payment; or
- (b) tampers or interferes with any Equipment or breaches any terms of this Agreement.

9.3 The Customer agrees that upon termination of this Agreement the Customer will not be entitled to any refund (in whole or in part) of the rental for the Equipment (unless the Customer have punctually performed all the Customer obligations under this Agreement for a continuous period of more than one year) and that the Customer will:

- (a) pay the Supplier for all amounts owing by the Customer to the Supplier under this Agreement; and
- (b) allow the Supplier to immediately enter the Property and collect the Equipment.

9.4 If the Customer moves house or vacates the Property permanently, the Customer must give the Supplier at least three weeks written notice prior to vacating the Property. This time allows the Supplier to either make arrangements with the Customer in respect to the Customer's new property and with the new owner of the Property or to terminate this Agreement. If the Customer does not give the Supplier three weeks notice, the Customer will be liable to pay for LPG used at the Property and any damage to, or loss of, the Equipment until such time as this Agreement is terminated.

9.5 If the new occupier of the Property does not immediately enter into an agreement with the Supplier, the Supplier will collect the Equipment from the Property as soon as reasonably practical (but will not be liable to the Customer for any delay in collecting the Equipment).

## 10. Privacy Act

10.1 The Customer agrees to provide all relevant information requested by the Supplier and authorises the Supplier to:

- (a) collect retain and use information about the Customer from such sources (including credit references agencies and other credit service providers) as the Supplier may require for the purposes of administering the Customer's Account, assessing the Applicant's credit worthiness, enforcing any rights or marketing any goods and services provided by the Supplier;
- (b) to use the information in any dealings with the Customer and authorises any person to provide the Supplier such information about the Customer as the Supplier may require in response to its queries and for any of the purposes set out above; and
- (c) disclose any information about the Customer to credit reference agencies, or credit and service providers, or enforcement agencies;
- (d) load of any defaults against the Customer where the Customer does not comply with the Supplier payment terms set out in clause 6.

10.2 The Customer has the right of access to, and correction of their personal information held by the Supplier.

10.3 The Customer confirms that the above Privacy Act clause has been read and understood.