

## TERMS AND CONDITIONS OF CYLINDER GAS SUPPLY AGREEMENT

### 1 GENERAL

1.1 We intend to rely on the specific terms agreed between the parties on page 1 and these terms and conditions (the "Agreement").

1.2 In this Agreement "Cylinder" or "Cylinders" means a cylinder provided by the Company and used for the safe storage and transportation of Gas; "Gas" means propane gas or butane gas supplied by the Company and stored in a Cylinder.

1.3 This Agreement is binding from the date it is signed by both parties. The exclusive supply provisions shall commence on the Commencement Date and continue for a minimum period ending on the Expiry Date and continue thereafter until the expiry of any period of written notice to end this Agreement served by either party in accordance with these terms and conditions during which the Customer is obliged to buy propane gas cylinders and/or butane gas cylinders (together with any propane gas and/or butane gas to be stored therein) for storage and/or use at the Site exclusively from the Company (the "Exclusivity Period").

### 2 OWNERSHIP OF CYLINDERS AND GAS

2.1 The Cylinders remain the property of the Company at all times. In consideration of this exclusive supply Agreement the Cylinder(s) detailed overleaf will be provided free of the usual hire charge.

2.2 The Company shall retain title and ownership of any Gas stored in the Cylinders until the Company has received cleared funds for all and any monies due under this Agreement.

### 3 THE SITE

3.1 You undertake for the duration of this Agreement:

3.1.1 not to purchase or allow to be purchased any propane gas cylinder or butane gas cylinder for storage and/or use at the Site other than Cylinders filled with Gas provided by the Company;

3.1.2 not allow Cylinders to be used for any purpose other than as a container of propane gas or butane gas provided by the Company;

3.1.3 not to sell, transfer, charge, pledge or otherwise dispose of or deal with the Cylinders;

3.1.4 to keep the Cylinders at the Site safe and free from damage;

3.1.5 to ensure the Site complies with all statutory and regulatory requirements for the supply, storage and use of Cylinders at the Site;

3.1.6 to obtain all consents necessary from time to time for supply, storage and use of Cylinders at the Site;

3.1.7 to provide and allow at all times safe and suitable access to the Site and Cylinders for us or our agents to deliver, inspect, maintain, replace or remove Cylinders;

3.1.8 to comply with all reasonable operating instructions and recommendations detailed on our website and/or provided by us from time to time;

3.1.9 not to damage or interfere with the Cylinders or markings thereon; and

3.1.10 to notify us immediately if a Cylinder requires maintenance, repair or otherwise.

### 4 SUPPLY OF CYLINDERS AND GAS

4.1 We undertake to use our reasonable endeavours to supply you with filled Cylinders upon request and retrieve empty Cylinders.

4.2 You undertake to request refill deliveries in good time by calling 0161 303 0709 or emailing [cheshiregas@hotmail.com](mailto:cheshiregas@hotmail.com)

4.3 We shall not be obliged to deliver Cylinders where you have failed to comply with your obligations under this Agreement or access to the Site has changed so that in our opinion it is no longer sufficiently safe to deliver Cylinders.

4.4 If you require emergency deliveries or we are required to re-deliver as a result of something done or not done by you we reserve the right to make an additional charge because emergency or unnecessary deliveries will not be as cost effective as possible. We will tell you the actual amount of the charge prior to the delivery being made.

4.5 If, in our reasonable opinion, we are unable to deliver Cylinders for whatever reason we may at our option supply cylinders by an alternative means or end this Agreement by giving you one month's written notice.

4.6 We shall not be liable for any failure to make available any supplies of Gas or Cylinders where such failure is due to lack of available supplies, inability to obtain materials or delivery facilities, industrial action or any circumstances (of whatsoever nature) beyond the effective control of the Company.

4.7 All Cylinders delivered and/or retrieved under this Agreement shall be recorded on a delivery note (a copy of which will be left by our driver) and used to monitor the number of Cylinders in your possession.

4.8 Notwithstanding an obvious error which we will investigate the delivery note shall be conclusive evidence of all Cylinders delivered and/or retrieved whether or not you are present at the time of delivery to sign the delivery note.

4.9 Dates for delivery or performance are estimates only and are not guaranteed.

### 5 PAYMENT

5.1 We will charge you per Cylinder at the price applicable at the time it is delivered plus any other charges and/or taxes such as VAT which apply at the time.

5.2 We price our Cylinders competitively however from time to time changes will be necessary because wholesale LPG prices and operational costs change or your consumption has materially changed. We will however give you written notice of any change in Cylinder prices.

5.3 Payment should be made by cash, cheque or BACS. Payment shall not be deemed to have been made until we have received either cash or cleared funds in respect of any and all monies due.

5.4 Time is of the essence in relation to payment of any and all monies due to us. Payment of any and all monies owing shall be due by you when our invoice or statement is delivered to you.

5.5 If payment is not made within 30 days of the date of invoice we may:

5.5.1 withhold further deliveries of Cylinders until payment of any and all monies overdue is made;

5.5.2 request a deposit from you;

5.5.3 ask you for payment in advance of future deliveries;

5.5.4 charge you interest at 4% above the base rate from time to time of the Bank of England on any and all monies overdue; and/or

5.5.5 recover from you any legal and administrative costs incurred in recovering any and all monies overdue from you.

You may not terminate this Agreement if we withhold supplies under this clause.

### 6 ENDING THIS AGREEMENT

6.1 We may suspend or terminate this Agreement or any other contract with you without liability arising from such action if you:

6.1.1 fail to make payment of any and all monies overdue;

6.1.2 fail to comply with your obligations under this Agreement and, where appropriate, fail to remedy the breach within 14 days of receiving notice that you must remedy the breach;

6.1.3 suffer a change in the identity of the persons owning the majority of the beneficial interest in the shares, profits/losses or assets of the Customer;

6.1.4 provide materially inaccurate or misleading information in connection with this Agreement;

6.1.5 appear reasonably to us due to your credit rating or otherwise to be financially inadequate to meet your obligations under this Agreement; and/or

6.1.6 about to (or we reasonably believe that you are about to) do any of the above actions or omissions or suffer any of the above events; then we shall have the right, without prejudice to any other remedies, to exercise any of the rights set out in this Agreement.

6.2 You may terminate this Agreement by giving us 90 days written notice at any time after the Exclusivity Period or if we commit a fundamental breach of this Agreement which is incapable of a remedy during the Exclusivity Period. No act or omission can be considered a fundamental breach whereby it was induced by your failure to comply with your obligations under this Agreement or arises out of any matter referred to in clause 7.3.1.

6.3 If either party serves notice to terminate this Agreement:

6.3.1 any and all monies owing by you to us will be immediately due and payable;

6.3.2 you must upon reasonable notice by us make the Cylinders ready for collection;

6.3.3 you shall remain liable for the cost of any Gas consumed up to the date of collection but not paid for; and

6.3.4 in the case of termination before the end of the Exclusivity Period, the value of any special offer(s) received during that exclusive period and/or any loss of profit suffered as result of early termination to be calculated on a reasonable and proportionate basis.

### 7 LIABILITY

7.1 You will compensate us in full for any loss or additional costs (including any loss of Cylinder or unreasonable damage to a Cylinder in your charge and our reasonable legal and other costs in enforcing our rights) which we incur because you have failed to comply with your obligations under this Agreement or you are negligent in any way or you commit any breach of statutory duty.

7.2 You will compensate us in full for any loss or additional costs (including our reasonable legal and other costs in enforcing our rights) defending any claim or legal proceedings which are brought or threatened against us by any other person because you have failed to comply with your obligations under this Agreement or you are negligent in any way or you commit any breach of statutory duty.

7.3 Without prejudice to the effect of clauses 7.1 and 7.2, you agree to indemnify us and keep us indemnified on demand against all losses (whether direct or indirect or consequential losses or loss of profit or opportunity), costs, liabilities, demands, actions and expenses suffered or incurred by us arising out of:

7.3.1 any failure by you to validly and lawfully terminate any existing contract, agreement, arrangement or understanding for the supply to you of cylinders or gas by any person other than us at any time while this Agreement is in force;

7.3.2 any breach by you of your obligations under this Agreement or any actual or purported termination of this Agreement by you prior to the expiry of the Exclusivity Period in breach of clause 6.2, including, without limit, your agreement to receive Cylinders and purchase Gas from us on an exclusive basis; and

7.3.3 any claim by any person that any action or omission on the part of us, our employees, agents or representatives has amounted to an inducement that you breach any contract, agreement, arrangement or understanding to which you are a party.

For the purposes of this indemnity the parties acknowledge that our losses shall include but not be limited to amounts owed to third party suppliers and personnel costs which are suffered or incurred by us as a result of our complying with our obligations hereunder.

7.4 You will be liable for any damage to people or property as a result of the supply, storage or use of Cylinders and/or Gas at the Site.

7.5 Notwithstanding clause 7.5 below, we will not be liable:

7.5.1 for defects in the Cylinders to the extent that the defect has been caused or contributed to by you or a user;

7.5.2 unless you or a user give us a reasonable opportunity to remedy any matter for which we are liable before you or a user incur any costs and/or expenses in remedying the matter;

7.5.3 if you or a user have increased any loss through your own negligence, misuse or breach of contract we will not be liable for such increased loss;

7.5.4 for any damage which occurs as a result of following your instructions, guidance or advice except to the extent that such damage results from our negligence;

7.5.5 for any damage to your or a user's property during the delivery, maintenance or removal of Cylinders except to the extent that such damage results from our negligence;

7.5.6 for any loss or failure to deliver Cylinders and/or Gas if you fail to comply with your obligations under this Agreement; or

7.5.7 for damage, loss, liability, claims, costs or expenses caused or contributed to by you or a user's continued use of a Cylinder after a defect has become reasonably suspected by you or a user or should have been suspected by you or a user except to the extent that any defect was our fault.

7.6 We will not be liable for any loss or damage caused by us or our employees or agents unless:

7.6.1 You or a user have provided written evidence of your claim and how we caused the loss; and

7.6.2 the loss results from our negligence or breach of contract; and

7.6.3 at the time we entered into this Agreement the loss was a reasonably foreseeable result of the negligence or breach of contract; or

7.6.4 the loss was not a reasonably foreseeable result of the negligence or breach of contract but you or a user have specifically drawn the potential loss to our attention before we entered into this Agreement.

7.7 Nothing in this Agreement shall limit our liability for causing death or personal injury.

7.8 Nothing in this Agreement shall prejudice your statutory rights.

### 8 MISCELLANEOUS

8.1 We may use information acquired about you to identify you during any communication between us, to assist in detecting fraud or loss including credit checks, to assist in the administration of accounts or services or products provided by us.

8.2 We may assign all or any of our rights and obligations under this Agreement to another person at any time. Your new supplier will acquire the rights and assume the obligations as if it had been the original party to this Agreement with you. We will be released from all our obligations under this Agreement and from then on your dealings will be with the new supplier. This Agreement is not assignable by you without our prior written consent.

8.3 No waiver by us of any breach of this Agreement shall be a waiver of any subsequent breach of the same provision or any other provision.

8.4 If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement and the remainder of the affected provision of this Agreement shall remain in full force and effect.

8.5 We shall not be liable to you for any loss or delay in performance of this Agreement to the extent that such delay is due to event(s) outside our reasonable control including but not limited to acts of God, war, flood, fire, riots, civil commotion, malicious damage, explosion, governmental actions and any similar events, and labour disputes, strikes and lock-outs.

8.6 Any notice, invoice or other document required under this Agreement shall be in writing and delivered to you or us the address or email detailed on page 1. You hereby agree that a transmission report is proof of electronic delivery.

8.7 All third party rights are excluded and no third party shall have any right to enforce this Agreement.

8.8 The ending of this Agreement for whatever reason will not affect any rights or obligations which arise before this Agreement ends.

8.9 This Agreement is governed and constructed in accordance English Law and the parties hereto submit to the jurisdiction of the English Courts.