



Sale and supply of Rockgas LPG

Terms and Conditions

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Thank you for choosing Rockgas as your service provider for LPG.

Rockgas is New Zealand's largest LPG retailer – serving 95,000 customers from seven branches and a network of 28 franchises throughout the country.

We and our franchisees deliver 45kg bottles to homes for gas cooking, heating and hot water needs, as well as providing LPG tanks for business gas essentials.

BBQ 9kg bottles and LPG vehicles are also covered by Rockgas, with a network of more than 180 refilling stations throughout New Zealand.

Rockgas is owned by Gas Services New Zealand, part of the First Gas Group.

With its head office in New Plymouth, First Gas is New Zealand's largest owner and operator of gas networks, with more than 2,500km of high-pressure gas transmission pipes and about 4,800km of gas distribution pipes in the North Island. As well as Rockgas, the First Gas Group includes the Ahuroa gas storage facility in central Taranaki. First Gas' focus is a safe, reliable supply of gas and LPG to more than 165,000 customers throughout New Zealand.

Words that appear in italics in this document are defined in section 26. Each word appears in italics only once, and thereafter in normal text.

These terms and conditions take effect on 1 July 2019, and replace all previous versions of terms and conditions you may have had with us. These terms and conditions apply to the following LPG supplies:

- The supply by Rockgas of LPG in cylinders for both residential and commercial use.
- The supply by Rockgas of bulk LPG for commercial use and/or resale.

1. When this agreement starts

- 1.1 This agreement will begin on the date both *you* and *we* sign the *application* form for LPG, or the date that we first agree to supply you with LPG (if there is no application form). It will continue until it is ended under clause 1.2, clause 1.3 or clause 1.4, or until you have fulfilled all of your obligations under this agreement.
- 1.2 If you sign up to an *initial term*, you may end this agreement after the initial term by giving us:
- a) one month's written notice (in the case of a residential cylinder LPG supply);
 - b) three months' written notice (in the case of a commercial cylinder LPG supply); or
 - c) six months' written notice (in the case of a bulk LPG supply).
- Notice may be given before the end of the initial term in order to terminate the agreement at the end of the initial term.
- 1.3 If you have not signed up to an initial term, you may end this agreement by giving us written notice in accordance with the timeframes set out in clause 1.2(a), (b) and (c), unless otherwise agreed.
- 1.4 You acknowledge that the removal of any *Rockgas equipment* at your premises may take longer than the notice period referred to above and you agree to provide us with unrestricted access to your premises for such time as is required for us to remove any Rockgas equipment. For the avoidance of doubt, this right survives the termination or expiry of this agreement.

2. What Rockgas agrees to supply

- 2.1 We agree to supply LPG to you on the terms of this agreement for use in connection with your home or business at the *site(s)*.
- 2.2 We will supply LPG in accordance with the relevant laws in New Zealand, including those applicable to the specification and odorisation of LPG. We will provide services to you in accordance with standards reasonably expected of an operator of an LPG supply business in New Zealand and in compliance with all laws applicable to the supply of LPG. You agree to provide us with any information we may reasonably need to enable us to comply with these laws.
- 2.3 If you have existing LPG equipment at your site(s), before we commence supply of LPG to your site(s) upon request you must provide us with a current Gasfitting Certification Certificate (Gas Supplier Copy) as evidence that your system and appliances meet all *regulations*, and any Location Compliance Certificates or Plaques if required for your site.
- 2.4 We will use our reasonable endeavours to ensure a continuous and uninterrupted supply of LPG, but we cannot and do not guarantee this. Our ability to supply LPG to you may be affected by such factors as unforeseen weather conditions, natural disasters and other force majeure events as set out in clause 22. We may also be prevented from supplying some or all of your needs by transmission supply faults, transportation delays, lack of stock or supply, interruption to gas production facilities and accidents, and other reasons that are beyond our reasonable control.
- 2.5 We may ration LPG in the way we believe is best if there is a shortage, reduction, interruption or delay of supply to us.
- 2.6 We may also need to interrupt your supply to inspect, maintain, repair, upgrade or test equipment, or for safety reasons.
- 2.7 We will give you as much advance notice as is reasonably practicable of any interruptions or rationing of LPG supply that may impact you. We will use our best endeavours to restore regular supply as soon as practicable.
- 2.8 While this agreement applies to you, the only LPG product you may purchase for use in connection with your home or business, or for use in connection with the Rockgas equipment, is LPG supplied by us. This restriction applies unless, and to the extent that, we are unable to supply your requirements and we give our prior consent to your purchasing alternative LPG.

3. Installation of Rockgas equipment

- 3.1 If any Rockgas equipment is described in the application form, or is otherwise agreed by us to be installed, this clause 3 will apply.
- 3.2 We will deliver, install and commission any Rockgas equipment in a mutually acceptable location on your site(s) as soon as practicable.
- 3.3 If there is an installation charge specified in the application form or agreed between us, you must pay that charge to us on the 20th of the month following the date of the invoice.
- 3.4 You must give us sufficient information to enable us to proceed with the installation of the Rockgas equipment. You must provide, at your cost and prior to the delivery of the Rockgas equipment, any site improvements, including any foundation, or access work, electrical power, water supply and fire protection equipment required for the installation.
- 3.5 We will work with you to obtain all statutory and local authority approvals relating to the installation, but the final responsibility rests with you. You will be responsible at all times for ensuring that your site(s) continues to meet all regulations. You must provide us with written consent to the installation of the Rockgas equipment from every person who has or obtains any legal or equitable interest in the site(s). You must also provide us with each person's written acknowledgment that the Rockgas equipment is our property, remains a chattel, and may be removed by us at any time.

4 . Delivery

- 4.1 You must advise us when delivery of LPG is required. If you are receiving bulk LPG supply, you must notify us as soon as the LPG in the Rockgas equipment tank falls to 30 per cent of its storage capacity.
- 4.2 We will make delivery of LPG within a reasonable time of your requesting delivery, or in accordance with any delivery schedule on which we both agree.
- 4.3 We will not be required to deliver LPG in quantities of less than 50 per cent of the storage capacity of the Rockgas equipment.
- 4.4 We will deliver LPG during normal business hours unless agreed otherwise between us. You must provide access to the Rockgas equipment for our delivery vehicles whenever the site(s) is open for business, unless agreed otherwise between us.
- 4.5 The application form may set out the delivery charges, which may include an urgent delivery charge, and an administration fee where you own your own LPG storage equipment (such as cylinders).
- 4.6 Delivery of LPG to you is deemed to be made at the point of delivery which means:
- For cylinders – at the cylinder valve, upon the product passing out of the cylinder and into the *pigtails*; or
 - For bulk supply – at the cylinder valve, upon the product passing out of the filling hose and into any other storage facility approved by us (for example a bulk tank).
- 4.7 Our records, weights and measurements will be conclusive evidence of quantities of LPG delivered, but you may appoint a representative to check them at the time of delivery.
- 4.8 We may refuse to supply you if you owe money to us for LPG or services previously supplied to you, or if any installation or appliance at your site(s) does not have an appropriate certificate of compliance or does not comply with other relevant regulations.
- 4.9 We may refuse to deliver LPG to your site(s) if we consider it to be unsafe or if we consider the access to the site(s) to be unsafe.

5 . Payment

- 5.1 We will issue an invoice in respect of each delivery of LPG to your site(s) based on the *price* for all LPG supplied. The initial price is as set out in the application form or at the then current standard price for LPG in your area in the event there is no application form, and is subject to change as set out in clause 24.
- 5.2 You shall pay to us a *facility fee* for our provision of the Rockgas equipment in accordance with the application form, or in accordance with our standard fees for your area in the event there is no application form, and you must pay our charges for other services performed by us from time to time. Our fees and charges are subject to change as set out in clause 24.
- 5.3 Unless otherwise specified in the application form (if any), you must pay any invoice we render, by the 20th of the month following the date of the invoice.
- 5.4 We may charge you interest on any amounts not paid by the due date at the rate of 2.5 per cent above the overdraft rate quoted to us by our New Zealand bankers, on a monthly basis until payment is made. You will also be responsible for all debt collection charges we may incur. These obligations will survive the end of this agreement.
- 5.5 If you fail to make payment of any amounts when they are due, then, without prejudice to any of our other rights under this agreement or at law, we may immediately repossess and remove any LPG at your site(s). You irrevocably authorise us to enter any site(s) where LPG may be stored for such purpose.
- 5.6 You are responsible for the payment of GST on all goods and services supplied by us to you, and for any other taxes levied on LPG supply.

6. Security deposits

- 6.1 We may require you to pay a deposit or bond as specified in the application form. We will refund the deposit or bond on the termination of this agreement subject to a deduction for any amounts owing to us.

7. Annual Contract Quantity (ACQ)

- 7.1 This clause 7 applies if an ACQ is specified in the application form or otherwise agreed between us.
- 7.2 You agree to purchase from us in each calendar year the ACQ of LPG and to purchase a proportionate part of it in any broken period at the beginning or end of this agreement. If less than the ACQ (or proportionate part in any broken period) has been delivered to you by the end of the 31st day of December in any calendar year, we may invoice you in respect of the shortfall. In that case, you must immediately pay us a sum equal to 25 per cent of the price (plus GST on the price) that would have been payable to us had such a shortfall been delivered to you. We will have no obligation to deliver any of the shortfall.
- 7.3 If any of the situations set out in clause 12 arise and we end this agreement, then, in addition to any other action we may elect to take:
- a) we may invoice you in respect of the undelivered ACQ for each calendar year (or proportionate part in any broken period) until the end of the initial term, or until the end of any subsequent term, as if this agreement had not been so ended; and
 - b) you must immediately pay us a sum equal to 25 per cent of the price (plus GST on the price) that would have been payable to us had such ACQ been delivered to you in each such period.
- 7.4 We will have no obligation to deliver any of the ACQ invoiced. You and we acknowledge that such payment to us is necessary to protect a legitimate business interest of ours, in sourcing and supplying specified quantities of LPG and that this amount is proportionate to the loss that we will suffer if you fail to take delivery of agreed quantities of LPG; and/or as a consequence of early termination of this agreement.

8. Safety in handling LPG and LPG equipment

- 8.1 LPG is a dangerous good. Accordingly, you must:
- a) handle LPG in a safe and proper manner and take all reasonable precautions to prevent misuse and damage;
 - b) make sure that each of your employees, contractors and customers and every other person purchasing or receiving LPG from you is adequately warned and instructed as to the known dangerous qualities of LPG and safe handling procedures;
 - c) comply with all our requirements and all regulations in relation to the handling and storage of LPG; and
 - d) make sure that all employees and agents who handle LPG and who access any Rockgas equipment are fully trained to do so in a safe and proper manner and are informed of and fully understand all regulations.
- 8.2 In respect of the Rockgas equipment, you must:
- a) at all times use the Rockgas equipment in a safe and proper manner, and in accordance with any instructions we give you;
 - b) comply with all regulations in relation to the operation of the Rockgas equipment;
 - c) not use or access the Rockgas equipment if any part of it is not, or appears to you not to be, in good working order;
 - d) notify us immediately by telephone if you become aware of or suspect any defects in the Rockgas equipment; and
 - e) take every care in handling the Rockgas equipment and protect it from misuse and damage.
- 8.3 In respect of any LPG equipment you use on the site(s), other than the Rockgas equipment, you must:
- a) make sure that you and all pipes, equipment and appliances on your site(s) that use LPG comply at all times with all relevant regulations;
 - b) carry out all repairs and maintenance as required by law necessary to keep your equipment in working order;
 - c) make sure that all installation, conversion or service work or commissioning carried out by you or your agents on your pipes, equipment or appliances is certified by a craftsman gas fitter; and
 - d) not connect, disconnect, tamper or interfere with meters, control equipment, pipes or any part of any reticulation network to which you are connected, or allow anyone else to do so.

9. Passing of title and risk – LPG

- 9.1 All risk in respect of LPG shall pass to you at the *point of delivery* of LPG.
- 9.2 You bear all risks of loss or damage arising out of, or in any way directly or indirectly connected with, the LPG after the passing of risk to you. You are responsible for any pipes and equipment (except metering and control equipment) between the point of delivery and the LPG appliances on your site(s).
- 9.3 We retain all property and title in LPG until you have paid for the LPG. We may repossess unpaid-for LPG at any time until legal title has passed to you.
- 9.4 We may allocate payment of indebtedness for any debt to any consignment of LPG provided to you as we see fit.
- 9.5 You must hold in trust for us any proceeds of sales of LPG supplied by us to you. We may trace the proceeds of any such sales in accordance with equitable principles.

10. Operation and care of Rockgas equipment

- 10.1 What you must do:
- a) You must ensure that you have suitable insurance to cover any risks associated with the Rockgas equipment being on your site(s). You must ensure that the interest of Rockgas Limited as owner of the Rockgas equipment is noted.
 - b) You must bear all costs necessary for the operation of the Rockgas equipment (including, without limitation, all costs of and related to fire protection, electrical power supply and water supply).
 - c) You must not interfere with or damage the Rockgas equipment. You must at your expense take all reasonable precautions to protect the Rockgas equipment. You agree to reimburse us for costs associated with the repair or replacement of Rockgas equipment (other than caused by normal wear and tear).
 - d) The Rockgas equipment remains at all times our sole property. You must not try to sell, create a security interest over, part with possession or control of or otherwise do anything prejudicial to our title to the Rockgas equipment.
 - e) You must not remove the Rockgas equipment from the site(s).
 - f) If you wish to relocate the Rockgas equipment on the site(s), or us to replace the Rockgas equipment with equipment of a different type or capacity, you must seek our prior consent and bear all costs of relocation or replacement.
 - g) You must ensure the Rockgas equipment and its surrounds are kept in a neat and tidy condition.
 - h) You must not allow the Rockgas equipment to be used or worked by any person other than you and your employees.
 - i) You must not make any alteration to the Rockgas equipment or allow any attachment to be affixed to or used in the operation of the Rockgas equipment without our prior written consent.
 - j) You must advise us of any proposed installation of other gas appliances or equipment at any site(s) to enable us to check that the capacity of the Rockgas equipment can meet the site's increased demand without causing inconvenience, and your appliances and/or equipment meet the required standards.
 - k) You must notify us of any work on your site(s) that may affect the Rockgas equipment, and you must supply us with a Gasfitting Certification Certificate (Gas Supplier Copy), verifying compliance with all relevant regulations.
 - l) You must only use the Rockgas equipment for the storage or dispensing of LPG purchased from us. Should you stop using the Rockgas equipment for this purpose, you must immediately notify us.
 - m) You must keep legible and visible all our trademarks and signs on the Rockgas equipment.
 - n) You must allow us full and free access to the Rockgas equipment at all times.
- 10.2 What we will do:
- a) We will carry out all repairs and maintenance (except for repairs and maintenance required for any site improvements as specified in the application form or agreed between us) necessary to keep the Rockgas equipment in reasonable working order and we will arrange for periodic maintenance and inspections of the Rockgas equipment. We will meet the costs of this in respect of all Rockgas equipment and Rockgas cylinders, but you must meet our costs in respect of all other equipment.
 - b) We may at all reasonable times enter the site(s) to inspect and maintain or work on the Rockgas equipment and, when entitled to repossess the Rockgas equipment, you irrevocably authorise us to enter the site(s) to effect removal. For those purposes, you must allow us to have safe and unobstructed access to and within your site(s). We will repair any damage to your site(s) caused by us in doing this.
 - c) If it becomes necessary for us to perform any repairs, maintenance or tests on the Rockgas equipment, we may remove the whole or any part of the Rockgas equipment from the site(s) for such purpose.
 - d) If we determine in our reasonable opinion that the replacement, repair or significant maintenance of any Rockgas equipment is not viable, for either commercial or safety reasons we may terminate this agreement on written notice to you. In the event of termination under this clause, your obligations under clause 7 of the Standard Terms to pay for any undelivered ACQ will not apply.

11. Sites

- 11.1 We will not be liable for any rents, rates, taxes, charges or impositions at any time payable in respect of the site(s).

12. Ending the agreement and repossession

- 12.1 If either party breaches a material term of this agreement, or breaches a term where the breach is not capable of remedy, the other party may terminate the agreement immediately on written notice.
- 12.2 Where either party breaches any term of this agreement, other than as set out in clause 12.1, the other party may terminate the agreement on seven days' notice. Additionally, we may at any time, on giving you seven days' notice, end this agreement if you:
- a) have failed to pay any outstanding amounts;
 - b) have breached any other obligation of this agreement and you have failed to take reasonable steps to remedy the breach within five working days of receiving a written notice from us requesting remedial action;
 - c) stop using the Rockgas equipment exclusively for our LPG;
 - d) in respect of any calendar year, cease to purchase the ACQ of LPG;
 - e) die, become mentally ill or become bankrupt, or are convicted of an indictable offence, or are sentenced to imprisonment;
 - f) (if a company) have a receiver, or receiver and manager appointed in respect of any of your assets;
 - g) are unable to pay your debts as they fall due or you make an assignment, arrangement, scheme or composition for the benefit of creditors, or are put into liquidation;
 - h) have an inspector appointed under any law relating to companies to all or any part of your affairs;
 - i) have an execution or levy of distress taken out against any of your assets, or a mortgagee or security holder takes possession of the whole or any part of your business, assets or revenues;
 - j) dispose of the whole or a major part of your assets or undertaking;
 - k) otherwise become or will become permanently incapable of performing your duties under this agreement; or
 - l) cease to have the right to occupy the site(s).
- 12.3 The ending of this agreement will be without prejudice to any rights you or we accrued prior to or in connection with the ending of the agreement.
- 12.4 Once this agreement ends:
- a) you must stop using all our trade marks, business names or other property belonging to us, and you must remove any sign or other representation that Rockgas products can be purchased from you; and
 - b) we will be entitled, and you will allow us, to enter the site(s) to recover any LPG or any Rockgas equipment; and
 - c) you will pay us the amount set out in clause 12.6 as compensation for our having installed any equipment on your premises, less any amount paid as a 'contribution' to the installation under any Special Terms.
- 12.5 To enable us to repossess the Rockgas equipment, we will be entitled to sever the Rockgas equipment (if necessary) from any other property. You must pay all costs associated with the removal of any Rockgas equipment from your site(s).
- 12.6 Upon repossession of the Rockgas equipment, you must pay us any unpaid facility fees, and you must reimburse us the installation cost (if any) specified in the application form or agreed between us prior to installation, less an amount calculated in accordance with the formula:
 A/B multiplied by C
Where:
 A is the installation cost (less any contribution to the installation already paid by you);
 B is the number of years forming the initial term of this agreement;
 C is the number of complete years that the Rockgas equipment has been installed.
You agree that such an amount is proportionate and necessary in order to protect our interest in having invested in the installation of equipment on the site.
- 12.7 The parties agree that we shall have the remedies of this clause 12 with respect to removal of the LPG and the Rockgas equipment, without prejudicing any of our other rights under the *Personal Property Securities Act 1999* or this agreement.

13. Default and disconnection

- 13.1 You acknowledge that we may suspend the supply of LPG:
- a) if you breach any of your obligations under this agreement;
 - b) if we, in our absolute discretion, determine that the supply should be disconnected for health or safety reasons, during any emergency or for the maintenance of Rockgas equipment;
 - c) if we are instructed to do so by a person authorised under a regulatory instrument; or
 - d) at the end of this agreement.

14. Disputes and complaints

- 14.1 If you are not happy with any aspect of our service, please contact our free internal complaints service in the first instance:
- Email: customercomplaints@rockgas.co.nz
Phone: 0800 762 542
Post: Customer Care Team Lead
Rockgas
PO Box 7195
Christchurch 8240
- 14.2 We will try to resolve your complaint straight away and will acknowledge your complaint within two business days of receiving it. If we can't resolve it straight away, we will give you a response within seven business days. If it is complex or involves other parties, we will investigate on your behalf.
- 14.3 We are a member of the Energy Complaints Scheme operated by Utilities Disputes. This is a free and independent industry complaints body. We are committed to maintaining the standards contained in the Energy Complaints Scheme document. If the complaint falls within its jurisdiction and it has reached deadlock, you can refer your complaint with us to Utilities Disputes.
- Contact details for Utilities Disputes:
Website: utilitiesdisputes.co.nz
Phone: 0800 22 33 40
Fax: 0800 22 33 47
Post: Utilities Disputes
PO Box 5875
Wellington 6140
Freepost 192682
- 14.4 If you remain unsatisfied with the way your complaint has been dealt with, even after the intervention of Utilities Disputes, you may pursue the matter in another forum (for example, the Disputes Tribunal or the court system).
- 14.5 If you wish to dispute an account, you must advise us before the due date for payment, and provide details of what you believe is incorrect. You must still pay any amount not in dispute by the due date.

15. Personal Property Securities Act 1999 (PPSA)

- 15.1 The parties agree that the terms of this agreement will apply to all LPG supplied by us to you in the future, and such goods supplied will be described as inventory and are subject to a security interest in our favour.
- 15.2 To the extent that our provision of the Rockgas equipment to you is a 'lease for a term of more than one year', you acknowledge that this is deemed to create a security interest in our favour in the Rockgas equipment under the PPSA.
- 15.3 Nothing contained in sections 114(1)(a), 120(2), 121, 125, 126, 127, 129, 131, 133 or 134 of the PPSA applies to this agreement. Your rights as 'debtor' contained in:
- i) section 116, being a right to receive a statement of account;
 - ii) section 120(2), being a right to receive notice of a secured party's proposal to retain collateral;
 - iii) section 121, being a right to object to a secured party's proposal to retain collateral;
 - iv) section 125, being a right to not have goods damaged when a secured party removes an accession;
 - v) section 126, being a right not be reimbursed for damage caused when a secured party removes an accession;
 - vi) section 127, being a right to refuse permission to remove an accession;
 - vii) section 129, being a right to receive notice of the removal of an accession; and
 - viii) section 131, being a right to apply to the court for an order concerning the removal of an accession,
- do not apply to the security interests granted to Rockgas under this agreement.
- 15.4 You waive your right to receive a copy of a verification statement confirming the registration of a financing statement or a financing change statement relating to any security interest created by this agreement under section 148 of the PPSA.

16. Warranties and conditions

- 16.1 Except as set out below, nothing in this agreement in any way limits your rights under the Consumer Guarantees Act (CGA). To the maximum extent permitted by the CGA, and notwithstanding any other term of this agreement, it is agreed that the provisions of the CGA will not apply, and we each agree to contract out of the provisions of the CGA, where the following conditions apply:
- a) the goods and/or services (as applicable) covered by this agreement are, or (in connection only with the guarantee of acceptable quality in section 7A of the CGA, the gas or electricity) is, both supplied and acquired in trade; and
 - b) each of us is in trade.

Where the above conditions apply, you and we acknowledge and agree that we each consider it is fair and reasonable for us to be bound by this clause 16.1.

If you are purchasing LPG from us for the purposes of a business, you acknowledge that you have made your own enquiries as to the suitability of the LPG we are supplying to you for all your purposes.

17. Limitation of liability

- 17.1 Each party to this agreement will only be liable for direct loss or damage caused by that party's negligence or a breach of this agreement, provided the loss or damage is reasonably foreseeable.
- 17.2 If either party is liable, the maximum amount they will pay to compensate the other party for any event or related series of events is \$10,000. This is subject to a maximum cap of \$50,000 in any 12-month period for all events or series of events, starting from the first event.
- 17.3 Neither party will be liable:
- a) for any claim, loss or damage made against the other party by any third party, in connection with this agreement;
 - b) for any loss relating to the other party's liability to any other person; or
 - c) for any indirect or consequential loss.

18. Confidentiality

- 18.1 You must not at any time disclose any information relating to us that is disclosed by us to you during the term of this agreement. You must take all reasonable steps to prevent any such disclosure to any third party by you or your agents or employees.

19. Privacy

- 19.1 We will collect and hold information about you in the course of providing services to you.
- 19.2 Where this information is 'personal information' as defined in the Privacy Act 1993, we will collect, use, hold and disclose this information in accordance with the Privacy Act, and this agreement.
- 19.3 We (and our agents) may collect, use and disclose your personal information to:
- enable us to carry out our responsibilities and exercise our rights under this agreement;
 - conduct credit checking;
 - recover any amounts owing to us;
 - market to you (for example, telling you about complementary products and services including those provided by third parties), including sharing your information with any other organisations with whom we have partnerships, or marketing alliances for this purpose; and to disclose your information to any other government agency or regulatory body, industry body.
 - for any other administrative purposes.
- 19.4 We may use information about you that we hold, and that we collect from third parties including any other agencies with whom we have partnership, marketing or services agreements and match it with other information we hold about you in order to fulfil any of these purposes.
- 19.5 We will comply with our legal requirements relating to the privacy of information that we hold about you. You are entitled to request access to and correction of any personal information we hold about you. You must let us know if there is any change in your information, including contact details.
- 19.6 We reserve the right to decline any credit application if any part of the required information set out in the application form, or required by us to assess your creditworthiness, is not provided, or if we are not satisfied with any credit enquiries we undertake about your application.
- 19.7 We may assign and disclose a unique number to you.

20. Assignment

- 20.1 You may not assign any of your rights and obligations under this agreement without prior consent, and for the purpose of this clause, any proposal to amalgamate with any other company or any change in control of a company will be deemed to be an assignment. We may withhold our consent if we form the reasonable opinion that the proposed assignee will not be able to comply with the terms of this agreement.
- 20.2 In the event of your wishing to sell or otherwise dispose of your LPG business at any one or more of the locations constituting the site(s) during the initial term (or any subsequent term), you must arrange for the purchaser of the business to enter into an agreement with us whereby such purchaser agrees to purchase LPG from us for the balance of the initial term (or subsequent term), unless we, at our option, decline to supply to such purchaser.
- 20.3 We may assign or novate any of our rights and obligations under this agreement. If we do so, we will give you written notice where practicable.

21. Waivers

- 21.1 Our failure to insist upon your strict performance of any term of this agreement, shall not be taken to be a waiver of that term or of any of our rights in relation to that term, and any event shall not be taken to be a waiver of the same term on any subsequent occasion.

22. Force majeure – events beyond our control

- 22.1 If our performance or observance of our obligations (or any of them) is prevented, restricted or interfered with by reason of any force majeure, we will, upon prompt notice of force majeure being given to you, be excused from such performance or observance to the extent of such force majeure.
- 22.2 The term 'force majeure' includes any act of God, industrial disturbance, act of the public enemy, war, terrorist attack, blockade, riot, lightning, fire, storm, flood, explosion, governmental restraint, breakdown of transportation, pipelines and/or other equipment or supplies, failure of the supply of LPG to us and/or the supply by us to you, whether due to force majeure claimed by our suppliers of otherwise (not resulting from our fault or negligence), or other cause, whether of this kind or otherwise, beyond our control.
- 22.3 Notwithstanding anything else in clause 22, the settlement of any industrial disturbance will be entirely within our discretion.

23. Notices

- 23.1 Any notice given to you under the agreement may be given in any one of the following ways:
- in writing delivered to you at the address set out in the application form or to your site(s) (where those addresses are different) or posted by prepaid mail addressed to you at such address. We will assume that any such notice is received five days after the time of posting;
 - by putting a notice on our website;
 - by sending an email to your nominated email address;
 - by facsimile to you or to any person or machine answering your facsimile at your site(s);
 - personally to you or any of your representatives specified in the application form or otherwise notified to us; or
 - by publishing in a newspaper or broadcast on radio or television.
- 23.2 Notices to us shall be in writing and hand-delivered or transmitted by prepaid mail or sent by facsimile or email to our addresses stated as per clause 27 of this agreement.
- 23.3 You must keep us fully advised at all times of any changes to your address or contact details.

24. Alteration of the price and terms

- 24.1 We may make changes to the terms of this agreement (including the price of LPG, any facility fees and other changes) at any time in accordance with clause 24.2.
- 24.2 We will notify you of these by giving you at least 30 days' notice of any changes in any of the ways listed in clause 23.1, unless clause 24.3 applies. The changes will take effect from the date specified in the notice.
- 24.3 Where the application form specifies the basis on which we can change our prices, the details in the application form will override these provisions to the extent they apply to price changes.

25. Guarantee

- 25.1 This clause will operate if a person or persons is/are named in an application form as 'guarantor(s)' for the application.
- 25.2 In consideration of our agreement to supply LPG to you at the guarantor's request, the guarantor agrees to be personally responsible to us for all payments due to us by you and for your performance of all your obligations in terms of the agreement.
- 25.3 The guarantor's guarantee is a continuing guarantee, and the guarantor's liability under it shall not be affected by our waiver or failure to exercise any of the rights we may have against you, or by any variation of any of the terms of this agreement. In the event that this agreement is renewed for a subsequent term, the guarantor's liability will continue for the subsequent term.
- 25.4 Where there is more than one guarantor, their liability as guarantors shall be joint and several.

26. Interpretation and definitions

- 26.1 In this agreement, the following terms have the following meanings:
- a) *This agreement* means the terms and conditions contained in this document, together with the application form signed by you, and our current price list from time to time.
 - b) *Annual Contract Quantity* and *ACQ* mean the annual minimum quantity of LPG specified in the application form that you are required to purchase from us pursuant to clause 7.
 - c) *Application form* means our standard form from time to time used to apply for the supply of LPG and/or the hire or supply of Rockgas equipment, signed by you and by one of our representatives on our behalf.
 - d) *Deadlock* means where:
 - a complaint made to us that has taken longer than 20 business days to resolve and we have not advised you in writing that there is a good reason for this, and what that reason is, or
 - a complaint that is with us has taken longer than 40 business days to resolve, or
 - Utilities Disputes is satisfied that:
 - we have made it clear that we do not intend to do anything about the complaint
 - you (as the complainant) would suffer unreasonable harm from waiting any longer, or
 - it would be otherwise unjust to wait any longer.
 - e) *Facility fee* means the amount we charge for the use of Rockgas equipment, as detailed in any application form, or at our then current standard rate as varied from time to time.
 - f) *Initial term* means the initial fixed term of this agreement set out in the application form.
 - g) *LPG* means liquid petroleum gas as defined in New Zealand Standard 5435 or any substituted standard, and more particularly means a material predominantly of any of the following hydrocarbons or mixtures of them: Propane (C₃H₈), Propylene (C₃H₆), Butane (C₄H₁₀) or Butylene (C₄H₈). If a particular form of LPG is to be supplied under this agreement, it will be specified in the application form.
 - h) *Pigtail(s)* means the flexible hose(s) which connect the cylinder(s) to the regulator of any Rockgas equipment or customer-owned equipment.
 - i) *Point of delivery* means the point at which we supply LPG to you as described in clause 4.6
 - j) *PPSA* means the Personal Property Securities Act 1999.
 - k) *Price* means our selling price per tonne or litre of LPG as set out in the application form, as varied from time to time.
 - l) *Regulations* means and includes all and any relevant laws, regulations, standards, codes of practice, legal orders, requisitions and directions applying to LPG equipment or the storage and handling of LPG, as the context requires.
 - m) *Rockgas equipment* means the equipment we supply to you as described in the application form (including that equipment repaired or replaced from time to time) plus any additional equipment we provide to you under and during the course of this agreement and, where consistent with this agreement, means any part of such equipment.
 - n) *Site(s)* means the delivery and/or installation location(s) specified in the application form.
 - o) *We, us and our* mean and refer to Rockgas Limited, a company incorporated in New Zealand and carrying on business at the address specified in this brochure and elsewhere in New Zealand, and includes its successors and assigns. Where the context allows, it includes our officers, employees, contractors, representatives and agents. However, if the application form is in the name of one of our Rockgas franchisees, 'we', 'us' and 'our' mean and refer to the Rockgas franchisee, its successors and assigns and, where the context allows, its officers, employees, contractors, representatives and agents.
 - p) *You and your* mean the purchaser taking LPG as our customer, whose name and address are specified in the application form, or provided to Rockgas when applying otherwise for the supply of LPG. If application is made by more than one person, each applicant is jointly and severally liable for all charges incurred and other obligations under this agreement.
 - q) *Point of Supply* - in relation to vapour use, as per Gas (Safety & Measurement) Regulations 2010, unless otherwise agreed under the supply contract.

27. More information

For further information or assistance with your LPG supply, call Rockgas.

Customer service centre

Telephone: 0800 762 542

Email: LPGenquiries@rockgas.co.nz

Head office address:

Rockgas Limited,
42 Connett Road West,
Bell Block,
New Plymouth 4312,
New Zealand

0800 FIRST GAS (0800 347 784)

Private bag 2020

New Plymouth 4342

Email: fgl.reception@firstgas.co.nz

Website: rockgas.co.nz