

Gaswork Kaitia Limited T/A Far North Gas - Terms & Conditions of Trade

1.	Definitions	
1.1	"Contract" means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.	can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.
1.2	"Supplier" means Gaswork Kaitia Limited T/A Far North Gas, its successors and assigns.	
1.3	"Customer" means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting the Supplier to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and: (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and (c) if the Customer is a part of a trust, shall be bound in their capacity as a trustee; and (d) includes the Customer's executors, administrators, successors and permitted assigns.	8. Security and Charge 8.1 In consideration of the Supplier agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, and the Customer grants a security interest in all of its present and after-acquired property, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The terms of the charge and security interest are the terms of Memorandum 2018/4344 registered pursuant to s.209 of the Land Transfer Act 2017.
1.4	"Goods" means all Goods or Services supplied by the Supplier to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).	8.2 The Customer indemnifies the Supplier from and against all the Supplier's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Supplier's rights under this clause.
1.5	"Price" means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between the Supplier and the Customer in accordance with clause 3 of this Contract.	8.3 The Customer irrevocably appoints the Supplier and each director of the Supplier as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 8 including, but not limited to, signing any document on the Customer's behalf.
2.	Acceptance	9. Cancellation
2.1	The parties acknowledge and agrees that: (a) they have read and understood the terms and conditions contained in this Contract; and (b) the parties are taken to have exclusively accepted and are immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of any Services.	9.1 Without prejudice to any other remedies the parties may have, if at any time either party is in breach of any obligation (including those relating to payment) under these terms and conditions the other party may suspend or terminate the supply or purchase of Goods to the other party. Neither party will be liable for any loss or damage the other party suffers because one of the parties has exercised its rights under this clause.
2.2	In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.	9.2 If the Supplier, due to reasons beyond the Supplier's reasonable control, is unable to the deliver any Goods to the Customer, the Supplier may cancel any Contract to which these terms and conditions apply or cancel Delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice the Supplier shall repay to the Customer any money paid by the Customer for the Goods. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.
2.3	Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.	9.3 The Customer may cancel Delivery of the Goods and/or Services by written notice served within twenty-four (24) hours of placement of the order. Failure by the Customer to otherwise accept Delivery of the Goods and/or Services shall place the Customer in breach of this Contract.
3.	Price and Payment	9.4 Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will not be accepted once production has commenced, or an order has been placed.
3.1	The Price shall be as indicated on invoices provided by the Supplier to the Customer in respect of the Goods supplied.	
3.2	Time for payment for the Goods shall be of the essence and will be stated on the invoice, quotation, or any other order forms. If no time is stated, then payment will be due seven (7) days following the date of the invoice.	
3.3	The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by the Supplier nor to withhold payment of any invoice because part of that invoice is in dispute.	10. Privacy Policy
3.4	Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to the Supplier an amount equal to any GST the Supplier must pay for any supply by the Supplier under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.	10.1 All emails, documents, images or other recorded information held or used by the Supplier is "Personal Information" as defined and referred to in clause 10.3 and therefore considered confidential. The Supplier acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines as set out in the Act. The Supplier acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer's Personal Information, held by the Supplier that may result in serious harm to the Customer, the Supplier will notify the Customer in accordance with the Act. Any release of such Personal Information must be in accordance with the Act and must be approved by the Customer by written consent, unless subject to an operation of law.
4.	Risk	10.2 Notwithstanding clause 10.1, privacy limitations will extend to the Supplier in respect of cookies where the Customer utilises the Supplier's website to make enquiries. The Supplier agrees to display reference to such cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's: (a) IP address, browser, email client type and other similar details; (b) tracking website usage and traffic; and (c) reports are available to the Supplier when the Supplier sends an email to the Customer, so the Supplier may collect and review that information ("collectively Personal Information").
4.1	Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.	
4.2	If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Supplier is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any person dealing with the Supplier to make further enquiries.	If the Customer consents to the Supplier's use of cookies on the Supplier's website and later wishes to withdraw that consent, the Customer may manage and control the Supplier's privacy controls via the Customer's web browser, including removing cookies by deleting them from the browser history when exiting the site.
5.	Title to Goods (Including any incidental items supplied as part of any Services)	10.3 The Customer authorises the Supplier or the Supplier's agent to: (a) access, collect, retain and use any information about the Customer; (i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer's creditworthiness; or (ii) for the purpose of marketing products and services to the Customer. (b) disclose information about the Customer, whether collected by the Supplier from the Customer directly or obtained by the Supplier from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
5.1	The Supplier and the Customer agree that ownership of the Goods shall not pass until: (a) the Customer has paid the Supplier all amounts owing to the Supplier; and (b) the Customer has met all of its other obligations to the Supplier.	10.4 Where the Customer is an individual the authorities under clause 10.3 are authorities or consents for the purposes of the Privacy Act 2020.
5.2	Receipt by the Supplier of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.	10.5 The Customer shall have the right to request (by e-mail) from the Supplier, a copy of the Personal Information about the Customer retained by the Supplier and the right to request that the Supplier correct any incorrect Personal Information.
5.3	It is further agreed that: (a) until ownership of the Goods passes to the Customer in accordance with clause 5.1 that the Customer is only a bailee of the Goods and must return the Goods to the Supplier on request. (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for the Supplier and must pay to the Supplier the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed. (c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for the Supplier and must pay or deliver the proceeds to the Supplier on demand. (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of the Supplier and must sell, dispose of or return the resulting product to the Supplier as it so directs. (e) the Customer irrevocably authorises the Supplier to enter any premises where the Supplier believes the Goods are kept and recover possession of the Goods. (f) the Supplier may recover possession of any Goods in transit whether or not delivery has occurred. (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of the Supplier. (h) the Supplier may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.	10.6 The Supplier will destroy Personal Information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
6.	Personal Property Securities Act 1999 ("PPSA")	10.7 The Customer can make a privacy complaint by contacting the Supplier via e-mail. The Supplier will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within twenty (20) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Privacy Commissioner at http://www.privacy.org.nz .
6.1	Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that: (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and (b) a security interest is taken in all Goods that have previously been supplied and that will be supplied in the future by the Supplier to the Customer, and the proceeds from such Goods as listed by the Supplier to the Customer in invoices rendered from time to time.	11. General
6.2	The Customer undertakes to: (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Supplier may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register; (b) indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby; and (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods or the proceeds of such Goods in favour of a third party without the prior written consent of the Supplier.	11.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
6.3	Unless otherwise agreed to in writing by the Supplier, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.	11.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand in which the Supplier has its principal place of business and are subject to the jurisdiction of the courts of New Zealand.
6.4	The Customer shall unconditionally ratify any actions taken by the Supplier under clauses 6.1 to 6.3.	11.3 Subject to the CGA, the liability of the Supplier and the Customer under this Contract shall be limited to the Price. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargos, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc. ("Force Majeure") or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Customer to make any payment due to the Supplier, following cessation of a Force Majeure.
6.5	Subject to any express provisions to the contrary (including those contained in clause 6), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.	11.4 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.
7.	Default and Consequences of Default	
7.1	Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Supplier's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.	
7.2	If the Customer owes the Supplier any money the Customer shall indemnify the Supplier from and against all costs and disbursements incurred by the Supplier in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Supplier's collection agency costs, and bank dishonour fees).	
7.3	Further to any other rights or remedies the Supplier may have under this Contract, if a Customer has made payment to the Supplier, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Supplier under this clause 7 where it	