

Agreed Terms

1. About us

1. **Company details.** Pink Top Gas Company Limited (company number 13394398) (**we and us**), is a company registered in England and Wales and our registered office is at The Warehouse, 33-35 Pillings Road, Oakham, Rutland, LE15 6QF. Our main trading address is The Warehouse, 33-35 Pillings Road, Oakham, Rutland, LE15 6QF. Our VAT number is 380389768.

2. Our contract with you

1. **Our contract.** These terms and conditions (**Terms**) apply to the order by you (**You**) and supply of gas by us to you (**Contract**). "You" means the individual, partnership or company entering into the Contract with us. No other terms are implied by trade, custom, practice or course of dealing.
2. **Entire agreement.** The Contract is the entire agreement between us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.
3. These Terms and the Contract are made only in the English language.

3. Delivery, transfer of risk and title

1. Gas will be supplied to you on a scheduled basis from the date of the first delivery. Occasionally our delivery to you may be affected by any act or event beyond our reasonable control. See clause 13 for our responsibilities when this happens.
2. Delivery is complete once the Gas has been delivered to the address for delivery set out in your order and the Gas will be at your risk from that time.
3. Property in any Gas shall only pass to you on receipt in full of:
 1. the price (and VAT) for the relevant Gas;
 2. all other sums due from you under this Contract; and
 3. all other sums due from you under any other Contracts between us.
4. Equipment (**Equipment**) remains our property and is supplied to you on the basis of sole use. "Equipment" means the gas cylinders, application equipment and/or other equipment.
5. If we fail to deliver your order by any time specified, you shall not be entitled to terminate this Contract and time shall not be of the essence in respect of deliveries or performance.
6. Our liability is limited to the cost of obtaining replacements of a similar description and quality in the cheapest market available, less the price of the Gas. However, we will not be liable to the extent that any failure to deliver was caused by any act or event beyond our reasonable control, or because you failed to provide adequate delivery instructions or any other instructions that are relevant.
7. If you fail to take delivery at any time, we may resell part of, or all of your order. We may also charge for abortive journeys or part deliveries and for storage.
8. You are required to handle the Equipment and Gas in a safe manner. Failing this, we reserve the right to suspend all future deliveries to you.
9. In the event that an emergency delivery is required for any Equipment and Gas, which is outside of our control or a reason for which we are not liable, we reserve the right to charge for this.

4. Our Gas

1. We recommend you print a copy of your order and these Terms or save copies to your computer for future reference.
2. The images on our site are for illustrative purposes only. Although we have made every effort to be as accurate as possible in respect of details and information provided on this site, any specifications included on this site are for the sole purpose of giving an approximate idea.
3. We reserve the right to make any amendments to sizes, weights, capacities, dimensions and measurements on our site from time to time if required for operational or health and safety reasons or by any applicable statutory or regulatory requirement.

5. Our Equipment

1. We will remain at all times the legal and beneficial owner of any Equipment provided to you (but not sold) under this Contract.
2. Except as provided in clause 6.3, or as otherwise agreed in writing by us, you shall not refill the cylinders or allow them to be used other than for storage, transport or use of the Gas placed in them by us.
3. Cylinders shall only be used for handling Gas supplied by us and you hereby indemnify us against all claims, demands, liability, loss, damages, costs (including legal costs) and expenses incurred arising from a breach of this clause 6.3.
4. We reserve the right to charge a deposit for the use of our Equipment. This will be returned to you when we receive or collect our Equipment and have had a reasonable period to inspect the Equipment.
5. We will maintain Equipment in accordance with our procedures and current safety requirements. Where this interrupts the supply of Gas, we will as soon as is reasonably practicable notify you of this.

6. Your duties and responsibilities

1. You shall:
 1. provided reasonable notice has been given to you, provide us access free of charge so we can carry out our duties and rights contained within this Contract including without limitation any right to maintain or remove our Equipment and Gas on termination or expiry of this Contract. If you cause undue delay in the exercise of these duties and responsibilities we may charge for all costs and expenses incurred;
 2. be responsible for the safekeeping of our Equipment and any other property we may leave at your premises (with your consent) for the purposes of delivery, installation, maintenance and removal of our Equipment;
 3. insure our Equipment to its full replacement costs against all risks (including public liability risks);
 4. obtain all necessary consents and comply with all legal obligations in connection with the use of our Equipment and Gas;
 5. notify us immediately and confirm in writing if at any time you notice in relation to our Equipment or Gas that there is a defect, malfunction or damage;
 6. ensure that all Equipment that belongs to us is kept in a clean and serviceable condition. Failure to do so may result in a sum payable to us equal to (a) the cost of new Equipment or (b) the cost of repairing and restoring the Equipment. Any costs or expenses incurred by us in recovering or repairing

Equipment or collecting any sums due under this clause 7.1.6 is duly recoverable;

7. not sell or lend our Equipment to a third party;
8. not deface, tamper, adjust, repair or interfere with our Equipment;
9. use our Equipment strictly for the purposes which it is intended to be used and comply with any operating instructions provided;
10. be responsible for complying with your statutory regulations and recognised codes of practice in the use, handling, processing, storing and transporting of the Equipment and Gas; and
11. ensure that persons who use, handle, process, store or transport the Equipment and Gas receive adequate training.
12. ensure that all Equipment that belongs to us is kept at the delivery address where possible. Lose of equipment may result in a sum payable to us equal to (a) the cost of new Equipment or (b) the cost of repairing and restoring the Equipment. Any costs or expenses incurred by us in recovering or repairing Equipment or collecting any sums due under this clause 7.1.6

8. Price of Gas and delivery charges

1. The price of the Gas will be as quoted at the time you submit your order. We take all reasonable care to ensure that the price of the Gas we advise to you is correct at all times. However, please see clause 8.5 for what happens if we discover an error in the price of any Gas you ordered.
2. Prices for our Gas may change from time to time, but changes will not affect any order you have already placed.
3. The price of Gas excludes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. However, if the rate of VAT changes between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Gas in full before the change in VAT takes effect.
4. The price of the Gas includes delivery charges. Please note that we reserve the right to charge you for deliveries, which fall outside of your scheduled delivery dates.
5. We receive a large number of orders and due to this it is always possible that, despite our reasonable efforts, the price of the Gas we quote to you may be incorrect. If we discover an error in price in relation to an order placed by you we will contact you to inform you of this error and we will give you the option of continuing with the purchase at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you, we will treat the order as cancelled and notify you in writing.

9. How to pay

1. 9.1 Normal terms of payment are by BACS, cash/cheque, debit card or credit card. Account by agreement of the management.
2. 9.2 In relation to BACS payments, these should be paid within 14 days of your delivery. In relation to cash payments, this will be taken at time of delivery of your Gas. Where you pay by debit card or credit card, please phone as soon as possible following your delivery and within 14 days. We reserve the right to charge any additional costs incurred.
3. You should notify us of any error contained within an invoice within 14 days of date of the invoice.

4. If any payment becomes overdue under this Contract, we may stop deliveries to you. Payment shall become immediately due.
5. We may charge interest on any late payments pursuant to The Late Payment of Commercial Debts (Interest) Act 1998.

10. Our warranty for the Gas

1. The Equipment and Gas we supply to you is intended for use only in the UK. We do not warrant that the Gas will comply with the laws, regulations or standards outside the UK.
2. We provide a warranty that on delivery the Gas shall:
 1. subject to clause 5.2, conform with its description.
3. Subject to clause 4, if:
 1. you give us notice in writing within a reasonable time of discovery that some or all of the Gas does not comply with the warranty set out in clause 2;
 2. we are given a reasonable opportunity of examining the Gas; and
 3. if we ask you to do so, you return or allow us to collect the Gas (at your cost),

we will, at our option, replace the defective Gas, or refund you the price of the defective Gas in full.

1. We will not be liable for breach of the warranty set out in clause 2 if:
 1. you make any further use of the Gas after giving notice to us under clause 3;
 2. you breach one or more of your duties under clause 7.1;
 3. the defect arises as a result of wilful damage, negligence, or abnormal storage or working conditions; or
 4. the Gas differs from its description or specification as a result of changes made to ensure it complies with applicable statutory or regulatory requirements.
2. Our liability is limited to the extent set out in this clause 10.
3. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
4. These Terms also apply to any replacements supplied by us to you.
11. Our liability: your attention is particularly drawn to this clause
 1. We only supply Gas for internal use by your business.
 2. Nothing in these Terms limits or excludes our liability for:
 1. death or personal injury caused by our negligence;
 2. fraud or fraudulent misrepresentation;
 3. breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
 4. any other liability that cannot be limited or excluded by law.
 3. Subject to clause 2, we will under no circumstances be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
 1. any loss of profits, sales, business, or revenue; or
 2. loss of business opportunity; or
 3. loss of goodwill; or
 4. any indirect or consequential loss.
 4. Subject to clause 2, our total liability to you for all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, will in no circumstances exceed the value of the Contract under which such losses shall arise.

5. Except as expressly stated in these Terms, we do not give any representations, warranties or undertakings in relation to the Equipment and Gas. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Equipment and Gas is suitable for your purposes.

12. Termination

1. Without limiting any of our other rights, we may suspend the supply or delivery of Equipment and Gas, or terminate the Contract with immediate effect by giving written notice to you if:
 1. you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 14 days of you being notified in writing to do so;
 2. you fail to pay any amount due under the Contract on the due date for payment;
 3. you take any step or action in connection with you entering administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business;
 4. you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business;
 5. your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy; or
 6. you show threatening or abusive behaviour towards our staff.
2. Termination of the Contract shall not affect your or our rights and remedies that have accrued as at termination.
3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

13. Force majeure

1. We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by any act or event beyond our reasonable control including without *limitation*:
 1. acts of God, flood, drought, earthquake or other natural disaster;
 2. epidemic or pandemic;
 3. terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 4. nuclear, chemical or biological contamination or sonic boom;
 5. any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
 6. collapse of buildings, fire, explosion or accident;
 7. any labour or trade dispute, strikes, industrial action or lockouts;

8. non-performance by suppliers or subcontractors; and
 9. interruption or failure of utility service.
2. If an event as mentioned at clause 13.1 takes place that affects the performance of our obligations under the Contract:
 1. we will contact you as soon as reasonably possible to notify you; and
 2. our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the event. Where the event affects our delivery, we will arrange a new delivery date with you after the event is over.
3. You may cancel the Contract affected by any act or event beyond our reasonable control which has continued for more than 30 days. To cancel please contact us. If you opt to cancel, you will have to return or allow us to collect (at our cost) any relevant Equipment and Gas you have already received and we will refund the price you have paid, including any delivery charges.

14. Communications between us

1. When we refer to “in writing” in these Terms, this includes email.
2. Any notice or other communication given by one of us to the other under or in connection with the Contract must be in writing and be delivered personally, sent by pre-paid first class post or other next working day delivery service, or email.
3. A notice or other communication is deemed to have been received:
 1. if delivered personally, on signature of a delivery receipt;
 2. if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; or
 3. if sent by email, at 9.00 am the next working day after transmission.
4. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.
5. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15. General

1. **Data protection.**
 1. When you provide us with personal data or personal data is obtained by us, or on our behalf, from you in connection with this Contract, we will handle this in accordance with our privacy statement. Please ensure that you read our privacy statement before you provide us with your personal data.
2. **Assignment and transfer.**
 1. We may assign, novate, charge, transfer or hold on trust our rights and obligations under the Contract to another entity and will notify you in writing if this happens.
 2. You may only assign, novate, charge, transfer or hold on trust your rights or your obligations under the Contract to another person if we agree in writing.
3. Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).
4. If we do not insist that you perform any of your obligations under the Contract, or if we do not enforce our rights against you, or if we delay in

doing so, that will not mean that we have waived our rights against you or that you do not have to comply with those obligations. If we do waive any rights, we will only do so in writing, and that will not mean that we will automatically waive any right related to any later default by you.

5. Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
6. **Third party rights.** The Contract is between you and us. No other person has any rights to enforce any of its terms.
7. **Governing law and jurisdiction.** This Contract is governed by English law and each party irrevocably agrees to submit all disputes arising out of or in connection with this Contract to the exclusive jurisdiction of the English courts.