



SUPPLY OF INDUSTRIAL, SPECIALITY GASES & CRYOGENIC LIQUIDS ("The Products") IN CYLINDERS, PALLETS, CRYOGENIC DEWARs, AND ONSITE GAS GENERATION EQUIPMENT ("The Equipment")

The Customer shall purchase the products and MGL shall deliver the products and equipment as ordered by the customer.

TERM AND TERMINATION:

This contract shall come into force from the date of signing.

If the Customer (being an individual), commits any act of bankruptcy OR (being a partnership), any of the partners commits any act of bankruptcy, OR (being a company), has a receiver, administrator (or similar) appointed, OR goes into liquidation, OR if the Customer commits any breach of any provision of any agreement with MGL, then MGL may by written notice to the Customer either: terminate the agreement breached or any part, OR suspend performance of all or any of its obligations, at any time during such suspension the agreement breached or any part termination will be without prejudice to any accrued rights of either party.

On suspension or termination, MGL may recover possession of any goods belonging to it (and where relevant, possession and title to any of the Customer's gas or liquid in MGL's leased equipment supplied by MGL to the Customer at no charge to MGL), and the Customer irrevocably authorises MGL to enter its premises for this purpose. The rights of this clause are in relation to "consumer goods" as that term is defined in the Credit (Repossession Act) 1997, subject to that act. MGL reserves the right to repossess goods and property that have not been paid for by the due date.

On termination under any circumstances the Customer must pay MGL's charges for the costs of removal of MGL supplied goods and leased equipment whether or not this is via MGL or through a nominated third party. If cylinders are in dispute, MGL shall give the customer a 7 day grace period to return those assets to MGL's depot in Nelson or Marlborough before a payment for full replacement cost will be issued.

At the end of the contract term either party may terminate this Contract by one party giving the other party three (3) months notice in writing of the intention to terminate. If termination is by the Customer due to a competitor's quotation, MGL shall be given the right to match or better the first written competing quotation.

TERMS AND CONDITIONS OF SUPPLY:

This contract is to be read in conjunction with MGL's terms and conditions document. A copy of this is attached to this contract under **SCHEDULE A**.

PAYMENT & DEFAULTS IN PAYMENTS:

The Customer shall pay all invoices rendered by MGL by the date advised on the invoice. MGL's preferred method of payment is via Direct Debit. Please contact our office for information on signing up for direct debit payments.

In the event of a breach in payment, MGL reserved the right to place the customer's credit account on STOP CREDIT until such time as the outstanding amount has been remitted to MGL in full.

If any event of an ongoing default in payment due to MGL occurs, MGL may at its discretion terminate any agreement governed by these terms.

Where the Customer fails to pay for any goods or leased equipment supplied by MGL on the due date, MGL will be entitled to charge, and the Customer is required to pay interest on the total amount owing at the rate of 12% per annum. This is to be calculated on a daily basis and added to any unpaid portion of the price due until full payment has occurred.

In the event of a default occurring, all monies owed by the Customer to MGL shall immediately become due and payable notwithstanding that the due date has not arisen.



The Customer shall indemnify MGL for any costs and expenses incurred in seeking recovery by any means for any outstanding payments (Including all legal or other enforcement costs). MGL reserves the right to repossess goods and property that have not been paid for by the due date.

If at any time the Customer is in default, MGL may enter the Customer's premises and remove any goods and leased equipment supplied by MGL being held by the Customer. MGL reserves the right to charge the Customer all costs incurred by MGL in effecting removal of the goods and leased equipment.

If at any time the customer is in default and cylinders or equipment belonging to MGL are in dispute, the customer shall return the equipment to MGL within 7 working days. If after this period the equipment has not been returned to MGL, MGL reserves the right to charge the customer for full replacement cost of any equipment outstanding, payable immediately via direct debit.

If the customer's business changes hands at any time, the customer is to immediately notify MGL of the impending sale and pay all outstanding charges on their account immediately. Any cylinders, Dewars, pallets or Gas generation Equipment on loan to the Customer is to be returned to MGL immediately so rental charges may be correctly calculated.

If the customers' business goes into Liquidation or Receivership at any time during the supply contract, the customer must notify MGL immediately of the receiver / liquidator details so our equipment and any outstanding amounts on their account can be acknowledged by the Receivers and promptly returned to MGL.

ENFORCEMENT AND PPSA:

The Customer irrevocably gives MGL and its agents the right to enter upon the Customer's premises (including leased premises), without giving notice and without being in any way liable to the Customer, if MGL has cause to exercise any rights it has under section 109 of the PPSA.

The Customer indemnifies MGL for any and all costs associated with the enforcement of these terms of trade, including legal costs on a solicitor/client basis. This includes; but is not limited to, the cost of any debt collection procedures for which the customer may be liable for, on top of the outstanding debt.

MGL reserves the right to repossess goods and property that have not been paid for by the due date.

The Customer waives its right under the PPSA to receive any verification statement from MGL.

The Customer shall immediately notify MGL in the event that the Customer changes its name.

REVIEW OF PRICE:

The Products quoted by MGL shall be subject to change at any time. The customer will be notified of any increases within a reasonable time frame via an authorised letter, email or on our website notices www.rockgasnelson.co.nz

A fixed delivery charge will be applied to all sales. Please note, due to increasing fuel and RUC charges, the delivery component may be altered, however the customer will be notified of any increases within a reasonable time frame via an authorised letter or email.

After hours deliveries will incur a call out fee that will be added to your invoice for this service.

RENTAL CHARGES:

All equipment leased by the customer will incur a daily rental charge. Rental invoices will be sent to every customer of each month, payable on the date stated on the invoice.



ORDERS & DELIVERY

Orders shall be placed through MGL's Office, 177 Haven Road Nelson, by telephone: (03) 546 6336 or (03) 577 9717 OR Email to sales@rockgasnelson.co.nz

The Customer shall allow local deliveries to be made during normal MGL business hours 8:30 am – 4:30 pm, Monday to Thursday 8:30 am – 4:00 pm Friday. Outside of these hours, if deliveries are requested by the customer, site access and/or any clearances to the client's premises must be provided to the appropriate MGL delivery personnel and a call out fee will apply.

OPERATION OF EQUIPMENT (Cylinders, Pallets and Cryogenic and Gas Generation Equipment)

The Customer shall at all times exercise due care in attending to and protecting the cylinders, pallets, cryogenic and gas generation equipment, and shall be solely responsible for the safe custody and proper use by competent personnel in such a manner approved by MGL. Where the above mentioned equipment is to be used in conjunction with any other equipment, such other equipment shall be of appropriate and efficient design and of safe construction.

Southern Gas Services Limited (SGSL), suppliers to MGL of the Industrial Gases and the cylinders, shall carry out all certification and maintenance necessary to keep all MGL leased equipment in good safe working order, and shall arrange for any required statutory testing and inspection in a timely manner.

The Customer shall provide and maintain their gas, cryogenics and gas generation storage facilities in a good, safe operational condition according to any statutory regulations in force.

The Customer shall not make any alteration to any equipment provided by MGL. The Equipment shall not be used for any other purpose other than for the storage of the Products supplied in it by MGL. If the Customer ceases to use any size cylinder, pallet, cryogenic or gas generation equipment provided by MGL, for any reason, the Customer shall immediately notify MGL for pickup and delivery back to MGL. The Customer will also be responsible for any risks to health, safety arising from the storage and usage of the products and equipment.

DAMAGE TO EQUIPMENT

The Customer must immediately notify MGL of any defect in or damage to the equipment, which comes to the attention of the Customer. MGL's sole liability in respect of any defective equipment shall be limited to crediting the Customer's account with the amount of Product lost (if any) from the equipment after the date on which notice of the defect was received by MGL. The Customer shall not attempt to repair or rectify any defect occurring with the equipment.

CUSTOMER'S LIABILITY

The Customer shall be liable to MGL for all damage or destruction to the equipment while in the Customer's care, and the Customer shall adequately insure the equipment while on the Customer's premises against all risks.

LIMITATION OF LIABILITY

The customer acknowledges that there are such hazards associated with the use of the product and equipment that it understands such hazards and it is the responsibility of the Customer to warn and protect its employee's and others exposed to such hazards through the Customer's storage and correct use of the Product and Equipment. MGL has copies of Material Safety Data Sheets relating to the products for the Customer to download off the Southern Gas Services website www.southerngas.co.nz to be able to make such warnings. The Customer shall indemnify and defend MGL and SGSL from and against any liability incurred by MGL & SGSL because such warnings were not made.



INDEMNITY AND EXCLUSIONS

MGL's liability for all kinds of loss or damage suffered by the Customer in the context of a supply of goods and leased equipment (or an agreement to make such a supply) from MGL to the Customer, irrespective of whether such liability arises in or is claimed on the basis of MGL's breach of contract, breach of a term, warranty, or condition implied by statute, negligence or other tort, or breach of any other statutory or equitable duty, and whether the act or omission of MGL is wilful or otherwise, is excluded and or limited (as the case may be) as set out below:

MGL's liability for loss incurred as a direct result of a defect in or failure of the goods and or leased equipment supplied (or agreed to be supplied) by MGL to the Customer shall be excluded and to the extent permitted by law, the Sale of Goods Act 1908 and all other guarantees, warranties, terms, conditional and representations either express or implied, including without limitation implied warranties of merchantability, and fitness for purpose are expressly excluded. Any claim that the Customer makes under this section (b) must be made within 30 days of receipt of the goods

MGL's liability for indirect loss, economic loss, consequential loss, loss of profit and loss of business opportunity is excluded.

FORCE MAJEURE

MGL shall not be liable for any failure to fulfil its obligations under this contract, if such failure is due to 'force majeure or frustration of the contract beyond MGL's reasonable control.

DISPUTES

If a dispute or difference arises out of or in connection with this contract, or the subject matter of this contract, including any question regarding its existence, validity or termination (a "**Dispute**"), then the parties agree to follow the dispute process set out under this contract and agree that no party may commence any court proceedings or arbitration in respect of the Dispute (except where a party seeks urgent interlocutory relief), unless that party has first complied with the dispute process set out under this contract.

The parties will first attempt to resolve the dispute by entering into good faith negotiations to attempt to resolve the Dispute within 14 days of one party notifying the other party in writing in respect of the Dispute ("the Negotiation Period").

In the event that the Dispute remains unresolved at the end of the Negotiation Period, the disputing parties must immediately refer the dispute to mediation. Upon a Dispute being referred to mediation, the parties will agree on a suitable person to act as the mediator. In the event the parties fail to agree on the identity of the mediator within 7 days of the Dispute being referred to mediation, the mediator will be appointed by the President of the Arbitrators' and Mediators' Institute of New Zealand Inc, upon the application of any party. The mediation will be conducted in accordance with the Mediation Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc in force at the time the Dispute is referred to mediation. The place of mediation shall be Nelson, New Zealand.

If the Dispute is not resolved by mediation in accordance with this contract, the Dispute will be referred to and finally resolved by arbitration. The arbitration will be conducted in accordance with the Arbitration Protocol of the Arbitrators' and Mediators' Institute of New Zealand Inc in force at the time the Dispute is referred to arbitration. The arbitral tribunal will consist of one arbitrator to be agreed upon by the parties. If the parties fail to agree on the identity of the arbitrator within 14 days from the date upon which the Dispute is referred to arbitration, then the arbitrator will be appointed by the President of



the Arbitrators' and Mediators' Institute of New Zealand Inc, upon the application of any party. The place of the arbitration will be Nelson, New Zealand.

CONTRACT CONFIRMATION & SIGNATORY AUTHORISATION

This agreement is confirmed for the specified period as highlighted above "Term and Termination" and is enforceable from the date of the first gas and equipment delivery.
Signatory & Authorised Company Representatives Confirmation.



SCHEDULE A

MINCORP GAS LTD TERMS & CONDITIONS OF SUPPLY

1) GENERAL:

These terms and conditions supersede all previous negotiations and conditions whether oral or written. Headings are for convenience only and do not affect interpretation. If the Customer has received these general terms and conditions of supply, any subsequent placing of orders by the Customer will be deemed to amount to acceptance of these terms and conditions.

2) DEFINITIONS:

"MGL" means Mincorp Gas Limited, its successors' and assigns. "CUSTOMER" means the individual person or company purchasing the goods from MGL pursuant to these terms and conditions. "GOODS" means any goods including: Gas, Bulk Gas, Liquid, Bulk Liquid, supplied to the Customer by MGL in MGL owned or leased Cylinders, Dewars, Pallets, or any other ancillary gas storage equipment supplied in respect of each order received from the Customer, and then accepted by MGL, those goods described in the invoice issued by MGL to the Customer in respect of the relevant order. "LEASE EQUIPMENT" means MGL owned or leased assets including: cylinders, dewars or any gas or liquid containing vessels, cages, pallets, gas generation equipment, valves, cylinder valve caps and any ancillary associated gas equipment not purchased outright by the Customer but supplied by MGL to the Customer. "GAS/LIQUID CHARGES" means the cost, type and quantity of gas or liquid ordered by the Customer supplied by MGL in various size cylinders, dewars, or pallets as identified in MGL's invoices. MGL reserves the right to vary gas / liquid charges upon written notice to the Customer. "GAS VOLUMES" means the volume of gas based on the Customers estimated annual volumes given to MGL's representative upon original quotation. If the Customer fails to purchase these estimated volumes given in the Customers official quotation document, MGL may vary the charges to reflect MGL current standard prices according to your actual gas volumes. "RENTAL CHARGES" means a daily rental will be incurred on all lease equipment supplied by MGL to the Customer as shown on MGL's records. Rental statements outlining any rental charges will be sent out to all Customers on a monthly basis. MGL reserves the right to vary rental charges upon written notice to the Customer. "DELIVERY CHARGES" means the Customer shall pay all costs if delivery unless otherwise agreed in writing. MGL reserve the right to vary delivery charges upon written notice to the Customer. "NOTICE" means any written notice given by MGL to the Customer that may be given in any one of the following ways:

- a) Posted Letter, Facsimile or Electronic Communication from MGL to the Customer as identified on credit application forms (The Customer must keep MGL fully advised at all times of any changes of address or contact details)

MGL reserve the right to assume that notice has been received within 3 days of notice being sent.

"OWNERSHIP CYLINDERS" means a cylinder that has been bought outright by the Customer and does not incur a daily rental or is associated with a cylinder exchange system. Proof of purchase MUST be sighted by MGL to ensure the cylinder in question is in fact a true "Ownership cylinder". MGL is not obliged to refill cylinders not owned by it, and is entitled to impose any terms and conditions in relation to the refilling of such cylinders as they see fit. Refilling of ownership cylinders will be done so entirely at the risk of the Customer. MGL reserved the right to decline refilling of any such cylinders according to MGL's Health and Safety Policies. Ownership waiver forms must be completed by the customer to confirm the ownership.

3) PRICE, INVOICING AND PAYMENT:

The price indicated on the invoice shall be increased by the amount of G.S.T and any other taxes and duties which may be applicable payable by the Customer. The price quoted to the Customer by an authorised agent or representative of MGL will be indicated on all invoices. Where no such quotation has been given, the current list price in effect at the day of delivery will be recorded. The Customer must pay all charges by the 20th of the month following the date of the relevant invoice issued by MGL by direct credit or direct debit into MGL's nominated account. The Customer may not withhold payment or make any deductions for any moneys owed to MGL without MGL's prior written consent. The Customer must notify MGL immediately upon receipt of the goods of any errors on an invoice for



rectification. MGL will have the right to enter the Customer's premises to audit, inspect and maintain MGL's goods and lease equipment upon reasonable notice.

4) DEFAULT IN PAYMENT:

If any event of default in payment due to MGL occurs, MGL may at its discretion terminate any agreement governed by these terms. Where the Customer fails to pay for any goods or leased equipment supplied by MGL on the due date, MGL will be entitled to charge, and the Customer is required to pay interest on the total amount owing at the rate of 12% per annum. This is to be calculated on a daily basis and added to any unpaid portion of the price due until full payment has occurred. The event of a default occurring, all monies owned by the Customer to MGL shall immediately become due and payable notwithstanding that the due date has not arisen. The Customer shall indemnify MGL for any costs and expenses incurred by seeking recovery by any means for any outstanding payments (Including all legal or other enforcement costs) If at any time the Customer is in default, MGL may enter the Customer's premises and remove any goods and leased equipment supplied by MGL being held by the Customer. MGL reserves the right to charge the Customer all costs incurred by MGL in effecting removal of the goods and leased equipment. If the customer is in default or has suspended their account and has an asset belonging to MGL, MGL reserves the right to charge the customer full replacement cost of that asset if this has not been returned to MGL within 7 days of notification to MGL. The amount shall be direct debited from the customer's account after this period has expired. MGL reserves the right to repossess goods and property that have not been paid for by the due date.

5) CREDIT LIMITS:

If a Customer's credit limit set by MGL has been exceeded, MGL may refuse to accept any further orders from the Customer until such time as all outstanding payments exceeding the credit limit have been satisfied.

6) DELIVERY/COLLECTION OF GOODS:

Any time stated for delivery of goods is an estimate only. MGL is not liable for any delay in delivery. If MGL is unable to deliver or makes a defective delivery of part of the goods ordered, this does not entitle the Customer to terminate any supply agreement or make any claim against MGL. Delivery is deemed to have taken place at the time that the goods were unloaded at the Customer's premises. The Customer shall pay all costs of delivery unless otherwise agreed. The Customer must ensure safe and proper access to the Customer's premises for the purpose of delivery of the goods. If for any reason delivery cannot be made due to the Customer's act or omission, MGL may charge additional fees for abortive or part deliveries. MGL may suspend deliveries of gas or liquid if the gas/liquid storage, handling or customer's process equipment is considered by MGL delivery staff to be unsafe for delivery. MGL reserves the right to subcontract the delivery of the goods to the Customer's site. The Customer acknowledges that collection of the goods from any MGL site or authorised agent/reseller will be at their own risk and that it is the Customer's responsibility for safe handling, transportation and compliance of dangerous goods in accordance with all relevant legislation.

7) FORCE MAJEURE:

In the event of any delay in the delivery or non-delivery of goods, or non-performance arising from wars, strikes, lockouts, labour disturbances, accidents, governmental restrictions, acts of god, manufacturer delays or defaults, or any cause beyond MGL reasonable control, then MGL shall:

- a) Be entitled to cancel or suspend delivery, AND
- b) Not be liable to the Customer for any delay or non-delivery.

8) CUSTOMER RESPONSIBILITY:

The Customer MUST provide free of charge, adequate and safe access to the Customer's premises, information and facilities (including labour for loading and unloading if required) for MGL to carry out its duties and rights under any agreement with the Customer. The Customer MUST ensure that all works and materials for which the Customer is responsible comply with industry standards and all legal and statutory requirements and with any advice given by MGL. The Customer MUST obtain all necessary consents and comply with all legal obligations in connection with installation, storage, handling, transportation and use of any goods supplied by MGL to the Customer. The Customer MUST insure the goods and lease equipment supplied by MGL for full replacement cost against loss, theft, damage and destruction. Certificates of insurance must be provided to MGL upon request to verify that insurance has been complied with. The Customer MUST pay MGL the current replacement value of any missing leased equipment according to MGL's records if the leased equipment is not returned to MGL within 7 days following a demand for



return of equipment due to a default, breach or termination of any agreement with MGL. The Customer MUST not obliterate, remove, deface, paint identification marks or labels on MGL goods and any supplied lease equipment. The Customer MUST return ALL MGL goods and supplied lease equipment in a clean and servable manner. If any item supplied by MGL is returned in a condition that MGL finds unsatisfactory the Customer MUST pay the costs of restoring MGL's equipment to a clean and serviceable condition, and pay new replacement costs if any MGL owned or leased equipment is lost, stolen or damaged beyond repair. The Customer MUST not mortgage, pledge, sell lend or part with possession or create a security interest under the PPSA relating to any of MGL's goods or leased equipment. The Customer MUST notify MGL in writing if the Customer intends to sell its business with such notice being provided not less than twenty one (21) days before any such sale takes place. In the event of this occurring, the Customer MUST identify all MGL supplied goods and Leased Equipment as belonging solely to MGL. The Customer MUST not transfer or assign its rights under this agreement without MGL's prior approval and subsequent closure of current account and payment of any outstanding debts to MGL. The Customer MUST notify MGL in writing as soon as reasonably practicable after the Customer becomes aware of any leaks or defect in the supplied goods or leased equipment. The Customer agrees that prompt notification to MGL of any leak or defect will enable MGL to identify defective goods and help to rectify the situation in a timely manner. The Customer MUST not use MGL owned or leased equipment for the storage or dispensing of any gas or liquid other than the gas or liquid supplied to the Customer by MGL. The Customer MUST operate and maintain the MGL supplied goods and lease equipment at all times in a safe manner in accordance with relevant compliances and legislation.

9) MAINTENANCE:

MGL shall maintain all the lease equipment in good working order and condition. MGL may maintain its leased equipment in accordance with relevant legislation and MGL's Operating Manuals. Regular maintenance will be conducted within normal business hours. If this requires interruption of supply MGL will endeavour to advise the Customers of any delays as soon as possible. MGL shall not be liable to the Customer for any loss suffered by the Customer as a result or failure of any part of the lease equipment or any defect in maintenance or repair of the leased equipment by MGL.

10) RISK, TITLE AND PERSONAL PROPERTY SECURITIES ACT 1999:

MGL retains ownership of all goods supplied to the Customer until such time as the Customer has paid for the goods and all other outstanding amounts payable to MGL on the due date in full. MGL's leased equipment remains at all times the absolute property of MGL and is supplied to the Customer for the Customer's sole use until such time as MGL requires its return. The Customer will have no rights over any other property of MGL or its contractor's brought onto the customer's site. The risk in goods sold or supplied to the Customer by MGL passes to the Customer upon dispatch or collection of those goods. The Customer acknowledges and agrees that if Title in any Products or Equipment has not passed to the Customer in accordance with the terms of this agreement, then:

- (a) The Customer shall hold the Products or Equipment on trust for MGL as bailee and the Customer shall be responsible for and liable to remedy any damage to any of MGL's Products or Equipment in the Customer's possession;
- (b) The Customer shall not under any circumstance sell, lease, dispose of, charge, mortgage, lease, licence or part with the possession of the Products or Equipment to any other person or entity;
- (c) The Customer irrevocably gives MGL (or its agents or representatives) authority (and MGL shall not be obliged to give any prior notice to the Customer) to enter the Customer's premises for the purpose of collecting any of MGL's Products or Equipment from the Customer
- (d) For the purposes of the Personal Property Securities Act 1999 ("PPSA"), this agreement constitutes a security interest and the Customer hereby grants a continuing and subsisting security interest in the Products or Equipment to MGL;
- (e) To the extent that Part 9 of the PPSA applies, the Customer agrees that the provisions of sections 114(1)(a), 120, 122, 133 and 134 of the PPSA which are for the Customer's benefit, or place any obligations on MGL in the Customer's favour, will not apply; and where MGL has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply;
- (f) To the extent that Part 9 of the PPSA applies, without limiting anything in the previous paragraph, the Customer hereby waives its rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA, and its rights to receive a copy of a verification statement under section 148 of the PPSA in respect of any financing statement or financing change statement registered by MGL; and



- (g) To treat the security interest in MGL's Products or Equipment as a continuing and subsisting security with priority over a registered general security interest and any unsecured creditors, regardless of whether MGL's Products or Equipment have become fixtures at any time.

11) BREACH AND TERMINATION:

If the Customer (being an individual), commits any act of bankruptcy OR (being a partnership), any of the partners commits any act of bankruptcy, OR (being a company), has a receiver, administrator (or similar) appointed, OR goes into liquidation, Or if the Customer commits any breach of any provision of any agreement with MGL, then MGL may by written notice to the Customer either:

- a) Terminate the agreement breached or any part, OR
- b) Suspend performance of all or any of its obligations, at any time during such suspension the agreement breached or any part

Termination will be without prejudice to any accrued rights of either party.

On suspension or termination, MGL may recover possession of any goods belonging to it (and where relevant possession and title to any of the Customer's gas or liquid in MGL's leased equipment supplied by MGL to the Customer at no charge to MGL), and the Customer irrevocably authorises MGL to enter its premises for this purpose. The rights of this clause are in relation to "consumer goods" as that term is defined in the Credit (Repossession Act) 1997, subject to that act. On termination under any circumstances the Customer must pay MGL's charges for the costs of removal of MGL supplied goods and leased equipment.

12) LIABILITY AND EXCLUSIONS:

MGL's liability for all kinds of loss or damage suffered by the Customer in the context of a supply of goods and leased equipment (or an agreement to make sure a supply) from MGL to the Customer, irrespective of whether such liability arises in or is claimed on the basis of MGL's breach of contract, breach of a term, warranty, or condition implied by statute, negligence or other tort, or breach of any other statutory or equitable duty, and whether the act or omission of MGL is wilful or otherwise, is excluded and or limited (as the case may be) as set out below:

- a. MGL's liability for loss incurred as a direct result of a defect in or failure of the goods and or leased equipment supplied (or agreed to be supplied) by MGL to the Customer shall be excluded and to the extent permitted by law, the Sale of Goods Act 1908 and all other guarantees, warranties, terms, conditional and representations either express or implied, including without limitation implied warranties of merchantability, and fitness for purpose are expressly excluded. Any claim that the Customer makes under this section (b) must be made within 30 days of receipt of the goods.
- b. MGL's liability for indirect loss, economic loss, consequential loss, loss of profit and loss of business opportunity is excluded.

13) GUARANTEES:

Where the Consumer Guarantees Act 1993 applies to this agreement, if the goods and leased equipment are acquired by the Customer for business purposes, the Customer agrees that the Consumer

Guarantees Act 1993 does not apply. Where the Customer supplies the goods and leased equipment in trade to another person acquiring them for business purposes, it must be a term of the Customer's contract with that person that the Consumer Guarantees Act 1993 does not apply in respect to the goods and lease equipment supplied. The Customer agrees to indemnify MGL against all liability or cost incurred by MGL under the Consumer Guarantees Act 1993 as a result of any breach by the Customer of the obligations in these terms. The Customer MUST strictly observe any operating and maintenance instructions and procedures specified or advised by MGL. MGL shall not be liable for any damage to goods caused by incorrect use, lack of adequate maintenance, incorrect power supply, overload, shock, fall or by the Customer's fault or negligence. Repairs and Maintenance on leased equipment supplied to the Customer by MGL must only be carried out by authorised MGL personnel. MGL accepts no liability for any claim by the Customer or any other person, including without limitation any claim relating to or arising from:

- a) any conditions, warranties, descriptions, representations, conditions as to fitness or suitability for any purpose, tolerance to any conditions, merchantability or otherwise whether expressly or implied by law, trade custom or otherwise, OR
- b) any representation, warranties, conditional or agreement made by any agent or representative, which are not expressly confirmed by MGL in writing, and the Customer agrees to indemnify MGL against any such claim.

Rockgas Nelson & Marlborough.
177 Haven Road, PO Box 740, Nelson 7040, New Zealand
Ph: 03 546 6336, Email: sales@rockgasnelson.co.nz Web site: www.rockgasnelson.co.nz



In any event, MGL's liability under any claim shall not exceed the price of the goods purchased by the Customer.

14) PRIVACY ACT:

Upon establishing an account with MGL, the Customer, proprietors, partners or directors of the Customer authorised MGL to collect retain and use information about the Customer, such sources (including credit reference agencies and other credit service providers) as MGL may require for the purposes of administering the Customer's account, assessing the creditworthiness, enforcing any rights or marketing and goods leased equipment provided by MGL and to use the information in any dealings with the Customer and authorised any person to provide to MGL such information about the Customer may require in response to its queries and for any of the purposes set out above, AND disclose any information about the Customer to credit reference agencies or credit and service providers, or enforcement agencies. The Customer may on request, see and correct any information held by MGL relating to that Customer. The Customer confirms that the above Privacy Act clause has been read and understood.

15) PROPRIETARY INFORMATION:

All information contained within the MGL website (www.southerngas.co.nz) is the property of Southern Gas Services Limited and or its affiliates. Except for a single copy made for personal use only, you may not reprint, republish, resell or redistribute this information in any form without the prior written permission of the owner(s) of the information which may be protected from copying by national and international copyright laws and treaties.

Southern Shield®, Co2gar®, Carbonit®, and Nitrocarb® are registered trademarks belonging to Southern Gas Services Ltd. Nothing in the Customer's agreement with MGL grants the Customer any right to use any of these trademarks of MGL or its affiliates.