

New Customer Application Form

Whakatane Branch

Bobs Gas 2018 Ltd

www.bobsgas.co.nz

sales@bobsgas.co.nz

Ph: 07-308-2124

11 Mill Road, Coastlands, Whakatane



PERSONAL INFORMATION

Full Name	:				
Company Name:					
(If applicable)					
Address	:				
City	:		Postal Code	:	
Cell Number	:		Phone Number	:	
Email Address	:				

IDENTIFICATION - DRIVERS LICENCE

Licence Name	:				
Date of Birth	:		Licence Number	:	
Licence Expiry	:		Licence Version	:	

Acceptance

The Customer certifies that the above information is true and correct and that they are authorized to make this application for credit. The Customer has read and understands the Terms and Conditions of Trade of the Company which forms part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these terms and conditions. The Customer agrees that in the case of a company, the signatories below acknowledge that they personally guarantee the payment of the Customer's trading account and all amounts due to the Company.

Date	:		Signature	:	
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PRODUCTS

Cylinder Size	:	☐	9 KG LPG	☐	12 KG LPG
		☐	18 KG LPG	☐	27 KG LPG
		☐	45 KG LPG	☐	Testing
			Other		
Cylinder Type	:	☐	Cylinder Rental	☐	Cylinder Owner

Date for first delivery required	:	
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OFFICE USE ONLY

LS Set-up:	Limit:
ID:	Credit Check:

Bobs Gas 2018 Ltd - Terms and Conditions of Trade

1. Definitions

- 1.1 "The Company" shall mean Bobs Gas 2018 Limited trading as Bobs Gas and Cylinder Services, its successors and assigns or any person acting on behalf of and with the authority of the Company.
- 1.2 "Customer" shall mean the Customer (or any person acting on behalf of and with the authority of the Customer as described on any quotation work authorisation or other form as provided by the Company to the Customer.
- 1.3 "Guarantor" means that person (or persons) or entity who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 1.4 "Goods" shall mean Goods supplied by the Company to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined) and includes Goods described on any invoices, quotation, work authorisation or any other forms as provided by the Company to the Customer.
- 1.5 "Services" shall mean all services supplied by the Company to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.6 "Price" shall mean the price payable for the Goods as agreed between the Company and the Customer in accordance with clause 3 of this contract.

2. Acceptance

- 2.1 Any instructions received by the Company from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by the Company shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Customer the terms and conditions are binding and can only be amended with the written consent of the Company.
- 2.4 The Customer shall give the Company not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to changes in the Customers address, phone number, or business practice). The Customer shall be liable for any loss incurred by the Company as a result of the Customer's failure to comply with this clause.

3. Price and Payment

- 3.1 At the Company's sole discretion the Price shall be either:
- a. as indicated on invoices provided by the Company to the Customer in respect of Goods supplied; or
- b. The Company's quoted Price (subject to clause 3.2) which shall be binding upon the Company provided that the Customer shall accept the Company's quotation in writing within thirty (30) days.
- 3.2 The Company reserves the right to change the Price in the event of a variation to the Company's quotation.
- 3.3 At the Company's sole discretion a deposit may be required.
- 3.4 The Company may submit a detailed payment claim at intervals not less than one month for work performed up to the end of each month. Progress payment shall be made within twenty (20) working days of each monthly payment claim.
- 3.5 At the Company's sole discretion payment shall be due on delivery of the Goods.
- 3.6 Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due twenty (20) days following the end of the month.
- 3.7 Payment will be made by cash, or by eftpos, or by credit card, or by direct credit or by any other method as agreed to between the Customer and the Company.
- 3.8 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
4. Delivery Of Goods
- 4.1 At the Company's sole discretion delivery of the Goods shall take place when the Customer takes possession of the Goods.
- 4.2 If the Company agrees to deliver the Goods to the Customer, then at the Company's sole discretion the costs of delivery are:
- a. included in the Price, or
- b. in addition to the Price, or
- c. for the Customer's account.
- 4.3 The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery in the event that the Customer is unable to take delivery of the Goods as arranged then the Company shall be entitled to charge a reasonable fee for redelivery.
- 4.4 Collection or delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.
- 4.5 The Company may deliver the Goods by separate installments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 4.6 The failure of the Company to deliver shall not entitle either party to treat this contract as repudiated.
- 4.7 The Company shall not be liable for any loss or damage whatever due to failure by the Company to deliver the Goods (or any of them) promptly or at all.
- 4.8 The Customer is responsible for the safe storage, handling, and use of any cylinders supplied and must comply with all applicable health and safety regulations, including those set by WorkSafe New Zealand and in accordance with the Health and Safety at Work Act 2015 and LPG Association guidelines.

5. Risk

- 5.1 If the Company retains ownership of the Goods nonetheless all risk for the Goods passes to the Customer on delivery.
- 5.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Company is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Company is sufficient evidence of the Company's rights to receive the insurance proceeds without the need for any person dealing with the Company to make further enquiries.

6. Title

- 6.1 The Company and Customer agree that ownership of the Goods shall not pass until:
- a. the Customer has paid the Company all amounts owing for the particular Goods; and
- b. the Customer has met all other obligations due by the Customer to the Company in respect of all contracts between the Company and the Customer.
- 6.2 Receipt by the Company 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 recognized and until then the Company's ownership or rights in respect of the Goods shall continue.
- 6.3 It is further agreed that:
- a. where practicable the Goods shall be kept separate and identifiable until the Company shall have received payment and all other obligations of the Customer are met; and
- b. until such time as ownership of the Goods shall pass from the Company to the Customer, the Company may give notice in writing to the Customer to return the Goods or any of them to the Company. Upon such notice being given the rights of the Customer to obtain ownership or any other interest in the Goods shall cease; and
- c. the Customer is only a bailee of the Goods and until such time as the Company has received payment in full for the Goods then the Customer shall hold any proceeds from the sale or disposal of the Goods on trust for the Company, and
- d. until such time that ownership in the Goods passes to the Customer, if the Goods are converted into other products the parties agree that the Company will be the owner of the end products; and
- e. if the Customer fails to return the Goods to the Company then the Company or the Company's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Goods are situated as the invitee of the Customer and take possession of the Goods, and the Company will not be liable for any reasonable loss or damage suffered as a result of any action by the Company under this clause.

7. Personal Property Securities Act 1999 ("PPSA")

- 7.1 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 previously supplied by the Company to the Customer (if any) and all Goods that will be supplied in the future by the Company to the Customer.
- 7.2 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 Company 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 Company 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;
- c. not register a financing change statement or a change demand without the prior written consent of the Company, and
- d. immediately advise the Company of any material change in the business practices of selling the Goods which would result in a change in the nature of proceeds derived from each sales.
- 7.3 The Company and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 7.4 The Customer waives its rights as a debtor under sections 115, 120(2), 121, 125, 126, 127, 129, 131, and 132 of the PPSA.
- 7.5 Unless otherwise agreed to in writing by the Company, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 7.6 The Customer shall unconditionally ratify any actions taken by the Company under clause 7.1 and 7.6.

8. Customer's Disclaimer

- 8.1 The Customer hereby disclaims any right to rescind, or cancel any contract with the Company or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Customer by the Company and the Customer acknowledges that the Goods are bought relying solely upon the Customer's skill and judgment.
9. Defects
- 9.1 The Customer shall inspect the Goods on delivery and shall within five (5) days of delivery (time being of the essence) notify the Company of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Company an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Company has agreed in writing that the Customer is entitled to reject the Company's liability is limited to either (at the Company's discretion) replacing the Goods or repairing the Goods.

10. Returns

- 10.1 Returns will only be accepted provided that:
- a. the Customer has complied with the provisions of clause 9.1; and
- b. the Company has agreed in writing to accept the return of the Goods; and
- c. the Goods are returned at the Customer's cost within five (5) days of the delivery date; and
- d. the Company will not be liable for Goods which have not been stored or used in a proper manner, and
- e. the Goods are returned in the condition in which they were delivered.
- 10.2 The Company may (in its discretion) accept the return of Goods for credit but this may incur a handling fee of twenty five percent (25%) of the value of the returned Goods plus any freight.

11. Warranty

- 11.1 For Goods not manufactured by the Company, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Company shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.
- 11.2 To the extent permitted by statute, no warranty is given by the Company as to the quality or suitability of the Goods for any purpose and any implied warranty is expressly excluded. The Company shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.
- 11.3 In the case of second-hand Goods, the Customer acknowledges that they have had full opportunity to inspect the same and that they accept the same with all faults and that no warranty is given by the Company as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Company shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.
12. Consumer Guarantee Act 1993
- 12.1 If the Customer is acquiring Goods for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by the Company to the Customer.
13. Intellectual Property
- 13.1 Where the Company has designed, drawn or written Goods for the Customer, then the copyright in those designs and drawings and documents shall remain vested in the Company and shall only be used by the Customer as the Company's discretion.
- 13.2 The Customer warrants that all designs or instructions to the Company will not cause the Company to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify the Company against any action taken by a third party against the Company in respect of any such infringement.
14. Default & Consequences Of Default
- 14.1 Interest on overdue amounts shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment.
- 14.2 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Company from and against all costs and disbursements incurred by the Company in pursuing the debt including legal costs on a solicitor and own client basis and the Company collection agency costs.
- 14.3 Without prejudice to any other remedies the Company may have, if at any time the Customer is in breach of any obligation (including those relating to payment) the Company may suspend or terminate the supply of Goods to the Customer and any of its other obligations under the terms and conditions. The Company will not be liable to the Customer for any loss or damage the Customer suffers because the Company has exercised its rights under this clause.
- 14.4 If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 10% of the amount overdue (up to a minimum of \$200) shall be levied for administration fees which sum shall become immediately due and payable.
- 14.5 Without prejudice to the Company's other remedies at law the Company shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to the Company shall, whether or not due for payment become immediately payable in the event that:
- a. any money payable to the Company becomes overdue or in the Company's opinion the Customer will be unable to meet its payments as they fall due; or
- b. the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- c. a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
15. Security And Charge
- 15.1 Despite anything to the contrary contained herein or any other rights which the Company may have howsoever:
- a. where the Customer and/or the Guarantor (if any) is the owner of land, realty or other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the sold land, realty or any other asset to the Company or the Company's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Customer and/or the Guarantor acknowledge and agree that the Company (or the Company's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met;
- b. should the Company elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify the Company from and against all the Company's costs and disbursements including legal costs on a solicitor and own client basis;
- c. the Customer and/or the Guarantor (if any) agree to irrevocably nominate, constitute and appoint the Company or the Company's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 15.1.
16. Cancellation
- 16.1 The Company 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 Customer shall repay to the Customer any sums paid in respect of the Price. The Company shall not be liable for any loss or damage whatsoever arising from such cancellation;
- 16.2 in the event that the Customer cancels delivery of Goods the Customer shall be liable for any loss incurred by the Company (including but not limited to, any loss of profits) up to the time of cancellation.
17. Privacy Act 2020
- 17.1 The Customer and the Guarantor/s (if separate to the Customer) authorises the Company to:
- a. collect retain and use any information about the Customer, for the purpose of assessing the Customer's creditworthiness or marketing products and services to the Customer; and
- b. disclose information about the Customer, whether collected by the Company from the Customer directly or obtained by the Company 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.
- 17.2 Where the Customer and/or Guarantors are an individual the authorities under clause 17.1 are authorities or consents for the purposes of the Privacy Act 2020.
- 17.3 The Customer and/or Guarantors shall have the right to request the Company for a copy of the information about the Customer and/or Guarantors retained by the Company and the right to request the Company to correct any incorrect information about the Customer and/or Guarantors held by the Company.
18. Unpaid Company's Rights
- 18.1 Where the Customer has left any item with the Company for repair, modification, exchange or for the Company to perform any other Service in relation to the item and the Company has not received or been tendered the whole of the Price, or the payment has been dishonoured, the Company shall have:
- a. a lien on the item;
- b. the right to return the item for the Price while the Company is in possession of the item;
- c. a right to sell the item.
- 18.2 The Lien of the Company shall continue despite the commencement of proceedings, or judgement for the price having been obtained.
19. Guarantee
- 19.1 In consideration of the Company supplying Goods and/or Services to the Customer the Guarantor and the Customer acknowledge that they are jointly and severally liable for payment of all monies from time to time owing by the Customer to the Company and for the due and punctual performance of this contract. The Liability of the Guarantor shall be as principal and not merely as surety and this guarantee shall not be prejudiced, affected or released by the insolvency of the Customer, the unenforceability of any other security, delay other indulgence or variation of terms of trading or by any other factor whereby sureties or guarantors may be prejudiced, affected or released.
- 19.2 This guarantee shall be a continuing guarantee with effect that the liability of the Guarantor shall not cease until all monies owed by the Customer to the Company have been paid and all obligations on the part of the Customer performed. As a separate and additional obligation, the Guarantor agrees to indemnify and hold harmless the Company against all losses, costs, liabilities and actions suffered or incurred as a consequence of the Customer's default in payment to the Company or observance of this contract.
- 19.3 All moneys payable by the Guarantor under this guarantee and indemnity shall be payable immediately upon demand made in writing by the Company to the last known address of the Guarantor.
- 19.4 By signing this contract the Guarantor agrees to the above guarantee and indemnity.
20. General
- 20.1 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.
- 20.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.
- 20.3 The Company shall be under no liability whatever to the Customer for any indirect loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Company of these terms and conditions.
- 20.4 In the event of any breach of this contract by the Company the remedies of the Customer shall be limited to damages which under no circumstances shall exceed the Price of the Goods.
- 20.5 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 Company.
- 20.6 The Company may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 20.7 The Company reserves the right to review and amend these terms and conditions at any time. Any changes will take effect from the date they are published on the Company's website, and the Customer agrees that continued use of the Company's Goods or Services or maintaining an account with the Company after such publication constitutes acceptance of the amended terms. The Company is not required to notify the Customer directly of any such changes.
- 20.8 The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(d) were omitted from the Contractual Remedies Act 1979.
- 20.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm, pandemic, cyber-attack or other event beyond the reasonable control of either party.
- 20.10 The failure by the Company to enforce any provisions of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Company's right to subsequently enforce that provision.
- 20.11 Acceptance of these Terms may be provided electronically, including via email or electronic signature, and shall be deemed binding upon receipt by the Company.
21. Privacy Statement
- 21.1 The Company is committed to protecting the privacy of its customers. The collection, use, and disclosure of personal information is governed by the Company's Privacy Policy, which is available on the Company's website at www.bobsgas.co.nz.
- 21.2 By entering into this agreement, the Customer acknowledges and agrees to the terms of the Company's Privacy Policy and consents to the Company collecting, using, storing, and disclosing personal information for purposes including (but not limited to) verifying identity, processing payments, managing accounts, delivering Goods and Services, communicating with the Customer, and meeting legal obligations.
- 21.3 The Customer has the right to access and request correction of any personal information held by the Company, in accordance with the Privacy Act 2020 (NZ).