



TERMS AND CONDITIONS FOR:
AVEDIA ENERGY PROPRIETARY LIMITED
(Registration number: 2003/023054/07)
("Avedia")

1. Interpretation and definitions

In these terms and conditions:

- "Customer"** means any person making use of LPG supplied by Avedia or any Reseller;
- "LPG"** means liquid petroleum gas;
- "Parties"** means, together, the Customer and Avedia and/or any Reseller and **"Party"** shall be construed as either one of them as the context may indicate;
- "Person"** means any association, business, close corporation, company, enterprise, firm, partnership, person, trust, undertaking, voluntary undertaking or similar body whether incorporated or unincorporated and includes a natural Person and a reference to a **"Person"** shall be deemed to be a reference to more than one Person
- "Reseller"** means any Person who is authorised to sell, market, store, and/or distribute LPG on behalf of or for Avedia; and
- "Terms"** means the terms and conditions of supply, trade and, use set out herein which shall, in the absence of any other specific written agreement concluded between the Customer and Avedia, be binding on the Customer upon being supplied with LPG by Avedia or any Reseller.

Conflicts and nature of these Terms

1. In the case of a conflict between these Terms and the provisions of a specific duly executed consumer agreement and/or a specific duly executed Reseller agreement, the provisions those agreements shall prevail to extent of the aforesaid conflict.
2. These Terms shall be made available to any Customer upon request and shall be set out on Avedia's website: <http://www.avediaenergy.com/> . Reference to these Terms shall appear on all invoices presented to Customer's and each Customer shall be deemed to have read, understood and accepted the same upon making payment to Avedia or any of its Resellers for the supply of LPG.

Payment and Deposit:

3. The Customer shall make payment to Avedia or any of its Resellers in respect of the supply of LPG in accordance with the payment terms approved by Avedia in writing from time to time, save that where no such terms have been explicitly approved, the Customer shall be obliged to make cash payments in advance, prior to being supplied with any LPG.
4. The Customer shall be liable for any delivery charges or fees levied by Avedia or any of its Resellers where delivery of the LPG is requested by the Customer.
5. The Customer shall make payment of the appropriate deposit in respect of the cylinder within which the LPG is stored.
6. All payments due to Avedia or any of its Resellers in terms hereof shall be made, either:
 - 6.1. as per credit terms granted and approved by Avedia to the Customer in writing; or
 - 6.2. where no credit terms have been so granted and approved, prior to the Customer taking delivery of the LPG and without deduction, set-off or withholding.



Priority of supply:

7. The Customer acknowledges that it shall not be entitled to a priority of supply or delivery over and above any of the other customers of Avedia or any of its Resellers.

Ownership and Risk:

8. The Customer acknowledges and agrees that all ownership rights in and to:
 - 8.1. the cylinders within which the LPG is stored shall at all times remain the property of Avedia; and
 - 8.2. any equipment supplied to it by a Reseller or Avedia, shall remain the property of that Reseller or Avedia (as the case may be) unless otherwise agreed in writing.
9. Any and all risk to in respect of the LPG purchased by the Customer from Avedia or any of its Resellers from time to time shall pass to the Customer on delivery thereof.

Deliveries:

10. Delivery to the address chosen by the Customer for the purposes of Delivery shall irrefutably be deemed to be proper delivery and the onus of proving non-delivery shall rest with the Customer.

Breach

11. Without derogating in anyway from the rights of Avedia or any of its Resellers set out above, if the Customer commits any breach of these Terms and fails to remedy such breach within 7 Business Days of written notice requiring the breach to be remedied, then Avedia or any of its Resellers (as the case may be) will be entitled, either to-:
 - 11.1. enforce specific performance of these Terms; or
 - 11.2. cancel these Terms,and recover such damages as it may have sustained.
12. The Customer shall, in the event of default as aforesaid, be liable for all costs and expenses (calculated on an attorney and own client scale) incurred as a result of or in connection with the default.
13. Avedia or any of its Resellers' remedies under clause 11 above shall not be exhaustive and shall be in addition and without prejudice to any other remedies they may have, whether for damages or otherwise..

LIABILITY AND INDEMNITY

14. The use of the LPG is entirely at the Customer's own risk.
15. Neither Avedia, any Person acting for or under the control of Avedia nor any Reseller (collectively the "**Avedia Parties**") shall be liable to the Customer or any other Person for any loss or damages (including consequential or special damages or loss of profits), loss of life, bodily injury or damage to or loss of property, of whatsoever nature and howsoever caused, and whether or not caused by the Avedia Parties, arising out of or connected in any way with the use of the LPG supplied to the Customer in terms hereof, except if such loss or damage arises directly from the gross negligence or wilful misconduct of the Avedia Parties.
16. Notwithstanding anything to the contrary contained in this Agreement and save to the extent attributable to the gross negligence of the Avedia Parties, the Avedia Parties will not be liable to the Customer for any loss, liability, damage or expense of whatsoever nature flowing from any claims that may be brought against the Customer by third parties and/or end consumers of LPG for any loss, liability, damage or expense of any nature flowing from the Avedia Parties's supply of LPG to the Customer and/or the Customer's consumption of LPG or reticulation of LPG to third parties and/or end consumers and/or their consumption of LPG.
17. Without prejudice to any of the rights of the Avedia Parties at law or in terms of any other provision of these Terms, the Customer hereby irrevocably and unconditionally indemnifies and holds the



Avedia Parties harmless against all claims and/or actual or contingent losses, liabilities, damages, costs (including legal costs on the scale as between attorney and client and any additional legal costs) and expenses of any nature whatsoever (including any damages, fines or penalties payable for breach by the Customer of any Applicable Laws) which the Avedia Parties may suffer or incur as a result of, or in connection with the supply of LPG to the Customer in accordance with these Terms.

18. Without derogating from clause 17 above, upon receipt by the Customer of a written notice from the Avedia Parties stating that an amount is payable by the Customer, in accordance with these Terms, the Customer hereby irrevocably and unconditionally undertakes (notwithstanding that it may dispute its liability to make such payment or render such performance) to immediately pay such amount. In the event of the Customer being obliged to pay an amount as aforesaid, such amount shall be paid in cash, without set-off, withholding or deduction of any nature whatsoever into such bank account as the relevant Avedia Party may notify the Customer in writing.
19. The provisions of clauses 14 to 18 shall survive the expiration and/or termination of these Terms whether at the instance of any Party and regardless of the reason for, or cause of, such expiration and/or termination.

General:

20. Any condonation of any breach of the provisions of these Terms or other act or relaxation, indulgence or grace on the part of Avedia or any of its Resellers shall not in any way operate as, or be deemed to be, a waiver by Avedia or any of its Resellers of any of their rights under these Terms or be construed as a novation thereof.
21. In terms of Section 45 of the Magistrate's Court Act no. 32 of 1944, the Parties hereby consent to the Jurisdiction of the Magistrate's Court. Notwithstanding the foregoing, Avedia or any of its Resellers (as the case may be) shall in their sole discretion be entitled to institute action in any court with competent jurisdiction.
22. No addition to, variation or consensual cancellation of these terms of use shall be of any force or effect unless in writing and signed by or on behalf of each of Customer and Avedia or any of its Resellers (as the case may be).
23. The invalidity, illegality or unenforceability of any provisions of these Terms of use shall not affect the continuation in force of the remainder of these terms of use, save in the event that any material term hereof is deemed invalid, illegal or unenforceable.
24. These Terms constitute the whole agreement between the Client and Avedia or any of its Resellers (as the case may be) and any other terms whether express or implied are excluded herefrom and any variations, cancellations or additions to these Terms shall be of no force or effect unless reduced to writing and signed by the Parties or their duly authorized signatories.
25. These terms and conditions shall be governed by the laws of the Republic of South Africa.