General Terms and Conditions - Commercial LPG Supply

1. Basis of Contract

1.1 These General Terms apply to each Order to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

1.2 The Order constitutes an offer by the Customer to purchase its total requirements of Gas at the Customer Premises exclusively from Avanti Gas in accordance with the terms of this Agreement.

1.3 The Contract shall only come into existence on Avanti Gas confirming that it accepts the Order.

1.4 Any samples, drawings, descriptive matter, or advertising produced by Avanti Gas and any descriptions or illustrations contained in Avanti Gas's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the products and services described in them. They shall not form part of the Contract or have any contractual force.

1.5 Any quotation for products and services given by Avanti Gas shall not constitute an offer. A quotation shall only be valid for a period of 48 Hours from its date of issue.

2. Definitions

"**Affiliate**" means a Party's Ultimate Parent Entity and any entity which the Party or its Ultimate Parent Entity directly or indirectly controls. For this purpose:

(i) the Ultimate Parent Entity of Avanti Gas is UGI Corporation; and

(ii) an entity directly controls another entity if it owns fifty per cent or more of the voting rights attached to the issued share capital of the other entity; and

(iii) an entity indirectly controls another entity if a series of entities can be specified, beginning with the first entity and ending with the other entity, so related that each entity of the series (except the ultimate controlling entity) is directly controlled by one or more of the entities earlier in the series.

"**Agreement**" means these terms and conditions together with the Schedule;

"Annual Standing Charge" means the standing charge payable by the Customer in respect of the Equipment as set out in the Schedule;

"**Business Day**" means a day, other than a Saturday or Sunday, on which banks are open for ordinary banking business in London;

"Charges" means, in each case as applicable to an Order, the Price, the Installation Charges, and the Annual Standing Charges;

"Codes Of Practice'' means the Codes of Practice published by UK LPG or any other regulations in force from time to time and which relate to the supply, delivery, uplift and storage of Gas;

"**Committed Consumption**" means the Customer's annual committed consumption of Gas as set out in the Schedule;

"**Contract"** means, together, this Agreement and the Order once accepted by Avanti Gas;

"**Cost of Product**" or "**COP**" means the weighted aggregate average cost of the purchase of Gas by Avanti Gas, from a number of sources, converted to GBP Sterling (£) from US Dollars ($) at the prevailing rate of exchange, together with any exceptional throughput costs and any other exceptional costs, as might vary from month to month;

"**Customer Premises**" or **"Premises**" means the Customer's premises specified in the Schedule to which the Gas is to be delivered;

"Data Protection Statement" means the Statement outlining Avanti Gas' use and protection of the Customer's personal data as appended to the Agreement.

"**Effective Date**" means the effective date of the Agreement specified in the Schedule;

"**Equipment**" means such Avanti Gas Storage Tanks and associated equipment (including Telemetry Equipment) supplied to the Customer under the Agreement and listed in the Schedule;

"FLT Cylinder" means a forklift truck cylinder;

"Forecasted Delivery" means a scheduled delivery of Gas by Avanti Gas based on Avanti Gas's estimate of the Customer's Gas consumption and the Customer's gauge readings or where applicable a reading from the Telemetry Equipment;

"**Gas**" means liquefied petroleum gas supplied by Avanti Gas to the Customer under the terms of the Agreement;

"Installation Charges" means the charges payable by the Customer for the installation of the Equipment at the Site, as set out in the Schedule;

"Insolvency Event" means in respect of a party:

(a) the party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (**IA 1986**) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;

(b) the party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party;

(c) the party applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;

(d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that party (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that party;

(e) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over that party (being a company, partnership or limited liability partnership);

(f) the holder of a qualifying floating charge over the assets of that party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

(g) person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the party;

(h) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of that party's assets and such attachment or process is not discharged within 14 days; or

(i) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) – (h) above.

"**Margin**" means the premium detailed in the Schedule;

"**Order**" means an order from the Customer to Avanti Gas for a quantity of Gas including orders derived from Forecasted Delivery;

"Payment Date" means the payment date as specified in the Schedule;

"Price" means the price for the Gas supplied as set out in the Schedule or otherwise varied in accordance with this Agreement;

"**Pro Forma Supply**" means the process by which Gas will only be supplied by Avanti Gas when the Customer has pre-paid in advance for delivery;

"**Schedule**" means the schedule attached to these terms and conditions;

"**Site**" means such part or parts of the Customer's Premises as determined by Avanti Gas is/are required for the installation and maintenance of the Equipment.

"Storage Tank(s)" means a storage tank or vessel located at the Customer's Premises for the storage of Gas;
"Telemetry Equipment" means the equipment which Avanti Gas may (at its discretion) supply alongside the Storage Tank to enable Avanti Gas to remotely monitor the Gas level in the Storage Tank;
"Term" has the meaning given to it in clause 4.1, subject to clause 8.5.
"Trigger Level" means the level of Gas in the Storage Tank relative to the Storage Tank's capacity to be confirmed to the Customer by Avanti Gas as at the Effective Date of this Agreement, as may be updated from time to time.

3. Interpretation

3.1 All headings and titles used in the Agreement are for convenience only. They are not to be used in the interpretation or construction of the Agreement.
3.2 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
3.4 A reference to writing or written includes fax and e-mail, unless stated otherwise.
3.5 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
3.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
3.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
3.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
3.9 In the event of any conflict between the Agreement, Order or the Schedule, the order of precedence shall be as follows: 1. Schedule, 2. Order, 3. Agreement.

4. Commencement & Duration

4.1 This Agreement shall commence on the Effective Date and shall remain in force for the initial period as set out in the Schedule (**"Term"**) and will, subject to clause 8.5, continue thereafter unless and until terminated by the Customer giving at least 3 months' written notice to Avanti Gas, such notice expiring no earlier than the expiration of the Term.

5. Ordering & Delivery

5.1 The Customer shall be responsible for placing Orders. The Order constitutes an offer by the Customer to purchase the Gas in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
5.2 The Customer shall place Orders as soon as the amount of Gas in the Storage Tank(s) at a Site falls to the Trigger Level. Avanti Gas shall not be liable for any failure by the Customer to place an Order for Gas when the amount of Gas in the Storage Tanks(s) falls to the Trigger Level.
5.3 In the event that Forecasted Deliveries are agreed at a Customer Premises the Customer agrees that:
5.3.1 Avanti Gas may deliver to those Premises at any time save where otherwise agreed with the Customer;
5.3.2 it shall provide a gauge reading from the Storage Tank(s) at the Premises not less than monthly, preferably by uploading reading/s to the Customer's "myavantigas" online portal.
5.3.3 its obligation to notify Avanti Gas of its Gas requirements will apply regardless of any Forecasted Delivery.
5.4 The Customer shall advise Avanti Gas in writing of any additional usage of Gas or extra appliances installed at a Site, to enable Avanti Gas to assess whether to revise the Site's delivery requirements.
5.5 The Customer shall place Orders by either by telephone, email or through its "myavantigas" online portal.
5.6 Where requested by the Customer to do so Avanti Gas shall confirm to the Customer as soon as reasonably practicable after the Customer has placed the order whether it accepts the order and a delivery period or time.
5.7 Avanti Gas shall use its reasonable endeavours to fulfil the Order.
5.8 Deliveries will usually be made within normal working hours. Time for delivery shall not be of the essence and the Customer acknowledges that any time or date quoted by Avanti Gas for delivery is an estimate only and Avanti Gas shall not be liable for any failure to meet any such estimate.
5.9 Avanti Gas reserves the right to make an additional charge:
5.9.1 where the Customer alters its delivery type from Forecasted Delivery to manual order; or
5.9.2 for emergency deliveries (being urgent deliveries required by the Customer as a result of the Customer's default, acts or omissions); or
5.9.3 if the Customer fails to place a minimum Order of 1,000ltrs or a quantity representing at least 60% of a Site's Storage Tank(s) capacity whichever is the lesser, such additional charge shall reflect the reasonable costs incurred by Avanti Gas in making such deliveries which shall be notified to the Customer prior to the delivery being made; or
5.9.4 in the event of any non or aborted delivery arising out of or in connection with any act or omission of the Customer or at the request of the Customer; or
5.9.5 in the event that Avanti Gas' road tankers are unreasonably delayed or prevented from making deliveries due to any act or omission of the Customer (for example the Site being unsuitable or unsafe to make deliveries).
5.10 The Customer hereby accepts responsibility for safe receipt of the Gas and shall ensure safe and convenient access to the Customer Premises for the delivery of Gas and further warrants that, at the time of delivery of Gas by Avanti Gas, there will be sufficient capacity in the Storage Tanks(s) to accept the quantity of Gas set out in the Order.
5.11 The Customer: (a) will ensure safe and convenient access to the Customer's Premises for the delivery of Gas and shall be responsible for ensuring the safety of the area where the Gas is to be delivered; (b) warrants that it has all necessary permissions, consents and licences in order for Avanti Gas to make deliveries of Gas to the Customer's Premises; and (c) shall ensure that Avanti Gas's road tankers are not unreasonably delayed or prevented from making deliveries. Avanti Gas reserves the right to refuse to deliver at Premises or over public or private roadways or waterways or any other premises that Avanti Gas reasonably considers unsafe and shall have no liability to the Customer for such non-delivery.
5.12 Avanti Gas will provide a delivery note in respect of each Gas delivery which shall be deemed proof of delivery and evidence of quantity of Gas delivered, whether or not signed by the Customer. In the absence of obvious error Avanti Gas shall not consider any claim for wrongful measurement of the quantity of Gas delivered unless such complaint is made at the time of delivery.
5.13 Avanti Gas may deliver the Gas ordered in one or more deliveries , which shall be invoiced and paid for separately. Each delivery shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other delivery in respect of an Order.

6. Risk & Title

6.1 Risk in the Gas will pass from Avanti Gas to the Customer when on discharge it passes the hose of the Avanti Gas' road tanker connected to the Storage Tanks(s).
6.2 Ownership of the Gas will not pass to the Customer until the Customer has paid for the Gas and all other sums due and owing to Avanti Gas on any account in full. Until such time, Avanti Gas or its duly authorised representatives will be entitled to recover and resell the Gas or any part thereof and may enter upon the Customer Premises (on reasonable notice) for that purpose. If the Customer at any time mixes the Gas with gas of its own, the Gas will remain the property of Avanti Gas and the Customer will be deemed to dispose of all its own gas before disposing of the Gas belonging to Avanti Gas.

7. Specification & Quality

7.1 Gas Supplied under the Agreement at any particular time shall, unless otherwise agreed, conform to the requirements for commercial quality of that grade in the edition of BS 4250 current at that time.
7.2 In the event that gas provided by anyone other than Avanti Gas is co-mingled with Gas provided by Avanti Gas all warranties concerning the quality or specification of the Gas shall be null and void.
7.3 Save for the Conditions implied by section 12 of the Sales of Goods Act 1979 or as otherwise specified in the Agreement, all other warranties, conditions or terms relating to the quality, specification, fitness for purpose, merchantability or condition of any Gas or Equipment supplied hereunder are to the fullest extent permitted by applicable law excluded from the Contract.

8. Equipment & Maintenance

8.1 Title to the Equipment shall remain at all times with Avanti Gas.

8.2 Avanti Gas shall supply the Customer with the Equipment and shall be responsible for the installation and maintenance of the Equipment subject to the terms and conditions of the Agreement.
8.3 The Customer hereby undertakes that it shall:
8.3.1 provide a suitable Site and base for the Equipment as agreed with or specified by Avanti Gas;
8.3.2 in the event of an underground vessel installation, carry out an assessment of the ground conditions including but not limited to ground water level and soil type before installation of the Equipment commences;
8.3.3 comply fully with all requirements of and obtain all approvals required by any local authority or regulatory body before installation of the Equipment by Avanti Gas commences;
8.3.4 provide Avanti Gas or its representatives at all reasonable times and on reasonable notice (except in emergencies or in the case of Forecasted Deliveries where no such notice shall be required) safe and unrestricted vehicular and pedestrian access to the Customer Premises for the installation, inspection, maintenance, repair or replacement of the Equipment;
8.3.5 use the Equipment only for the storage and use of the Gas in accordance with Avanti Gas' usage instructions;
8.3.6 not move, deface, damage, abandon or in anyway interfere with the Equipment or any markings thereon or cause or allow any such thing to be done and keep it clean and tidy at all times;
8.3.7 not in any manner whatsoever hold itself out to be the owner of the Equipment nor deny title thereto to Avanti Gas nor sell, lend, rent, dispose of, charge or part with possession of any of the Equipment;
8.3.8 notify Avanti Gas immediately upon becoming aware of any defect or fault in the Equipment or any damage or suspected damage thereto;
8.3.9 comply with all enactments, regulations, orders, codes of practice at any time in force relating to the use or storage of Gas and/or the Equipment and with any reasonable requirements of Avanti Gas from time to time;
8.3.10 reimburse Avanti Gas for its reasonable costs and losses incurred as a result of any failure of the Customer to comply with this clause 8.3.
8.4 Where, in Avanti Gas' sole reasonable opinion:
8.4.1 the Site and/or base for the Storage Tanks(s) are not suitable in accordance with Clause 5.4 above; or,
8.4.2 the Customer fails to provide safe and convenience access to the Customer's Premises in accordance with clause 8.3 above,
then:
8.4.3 Avanti Gas may refuse to deliver, install, inspect and/or maintain the Equipment until such time as Avanti Gas reasonably considers the Site and base for the Storage Tank(s) to be fit for purpose and invoice the Customer for Avanti Gas' reasonable fees incurred in respect of being unable to deliver, install and/or maintain the Equipment at the Site; and
8.4.4 the Customer agrees that Avanti Gas shall not be liable for the Customer for any defects in the Equipment caused by Avanti Gas being unable to inspect and/or maintain the Equipment as a consequence of clauses 8.4.1 and/or 8.4.2 above.
8.5 In the event the parties agree to the installation of any new Storage Tank(s) on the Customer's Premises, then, unless otherwise agreed by the parties in writing, the Initial Term or subsequent renewal term shall automatically be extended by an additional period of 3 years.
8.6 In the event that the Customer is supplied with refillable FLT Cylinders the Customer agrees that:
8.6.1 on the 10th anniversary of a FLT Cylinder's date of manufacture, title to and risk in the FLT Cylinder shall automatically transfer to the Customer, unless the Parties otherwise agree;
8.6.2 notwithstanding clause 8.6.1 above it shall not refill any FLT Cylinder that is not stamped as having passed a decennial statutory inspection within the last 10 years and it shall incorporate a test date check into its refuelling procedure; and
8.5.2 where additional FLT Cylinders are supplied to the Customer by Avanti Gas the Customer shall pay to Avanti Gas a one off fee for the supply and delivery of those FLT Cylinders in accordance with the terms of this Agreement.

9. Charges & Payment

9.1 Following delivery of the Gas, Avanti Gas shall issue an invoice for the Charges, in each case as applicable, in relation to the Order. Payment shall be made by variable Direct Debit, BACS transfer or any other method as agreed between Avanti Gas and the Customer from time to time on or before the Payment Date, without deduction or set-off. Time for payment shall be of the essence. For the avoidance of doubt, the Annual Standing Charge shall be payable regardless of whether the Customer submits an Order for Gas.
9.2 During the Term of this Agreement Avanti Gas shall be entitled to vary the Price from time to time and shall notify the Customer either orally or in writing of any such variation.
9.3 In the event the Parties have agreed to a variable Price, being the sum of COP and Margin, Avanti Gas shall, on notice to the Customer. be entitled to increase the Margin by not less than the percentage increase in the Retail Prices Index, as published by the Office for National Statistics, in the period since the Effective Date or the last increase made under this clause 9.3, as appropriate.
9.4 In the event the parties have agreed to a fixed Price during the Term, the price shall be fixed for the period specified in the Schedule and shall be subject to change thereafter.
9.5 Avanti Gas shall, on notice to the Customer, be entitled to increase the Annual Standing Charges from time to time by not less than the percentage increase in the Retail Prices Index, as published by the Office for National statistics, in the period since the Effective Date or the last increase made under this clause 9.5, as appropriate.
9.6 If the installation of the Equipment occurs more than 90 days after the Effective Date, where such delay in installation is due to any act or omission of the Customer or is at the request of the Customer, Avanti Gas reserves the right to change any or all of the Installation Charges, Annual Standing Charges or the Price. Avanti Gas will notify the Customer either orally or in writing of any such change.
9.7 Where the Customer has entered into a fixed Price and takes in excess of the Committed Consumption, Avanti Gas shall be entitled to increase the Price in respect of the Gas supplied in excess of the Committed Consumption in accordance Avanti Gas' then-current costs of the purchase and supply of Gas.
9.8 In the event that the Customer's Gas usage differs from, or in Avanti Gas' reasonable opinion it is expected to differ from, the Committed Consumption, Avanti Gas reserves the right to vary the Annual Standing Charge in addition to any variation made under clause 9.5.
9.9 Where the relevant Direct Debit agreed in accordance with clause 9.9 is cancelled for any reason, all sums due by the Customer to Avanti Gas under the Contract at the date of cancellation of the Direct Debit shall become due and payable immediately and Avanti Gas reserves the right to change the Customer's payment strategy to Pro Forma Supply upon notice.
9.10 In the event of late or non-payment of any of the sums under clause 9.1 on the due date, Avanti Gas shall be entitled:-
9.10.1 to payment of interest on the amount outstanding from the due date until payment is made in full at 5% per annum above the Bank of England base rate from time to time;
9.10.2 to payment of compensation for debt recovery costs in accordance with applicable law;
9.10.3 to set off any amounts payable under the Contract against any amounts that may be payable to the Customer or its Affiliates under any other contract between the Customer or its Affiliates and Avanti Gas; or
9.10.4 to withhold further delivery of Gas.
9.11 If the Customer disputes any invoice in whole or in part the Customer shall:
9.11.1 notify Avanti Gas in writing, including by email, no later than 5 Business Days after the Customer's receipt of the invoice after which time the Customer shall not be entitled to dispute the invoice, except in the case of manifest error;
9.11.2 pay any part of an invoice not being disputed in accordance with clause 9.1; and
9.11.3 on settlement of the dispute pay any portion disputed invoice found to be due and payable, as applicable, within 30 days of settlement of the dispute.
9.12 Unless agreed otherwise in writing all charges payable by the Customer under the Agreement shall be stated exclusive of any VAT or other applicable taxes or duties.
9.13 Avanti Gas shall charge and the Customer shall pay any VAT and other applicable taxes or duties in force at the time of supply.

10. Liabilities & Indemnities

10.1 The Customer shall defend, indemnify and hold Avanti Gas harmless against all losses, liabilities, claims, costs and expenses arising out of or in connection with the Contract and arising from:
10.1.1 death or personal injury, including fatal injury and disease, to any person in the employment of the Customer or its contractors; or
10.1.2 loss or damage to the property of the Customer and any of its employees;
whatsoever and howsoever arising, whether or not the breach of contract, tort, negligence or breach of statutory duty of Avanti Gas, its employees or agents, has caused or contributed to such injury loss or damage.
10.2 Avanti Gas shall defend, indemnify and hold the Customer harmless against all losses, liabilities, claims, costs and expenses arising out of or in connection with the Contract and arising from:
10.2.1 death or personal injury, including fatal injury and disease, to any person in the employment of the Avanti Gas or its contractors; or
10.2.2 loss or damage to the property of Avanti Gas and any of its employees;
whatsoever and howsoever arising, whether or not the breach of contract, tort, negligence or breach of statutory duty of the Customer, its employees or agents, has caused or contributed to such injury loss or damage.
10.3 The Customer shall further defend, indemnify and hold Avanti Gas harmless against all losses, liabilities, claims, costs and expenses arising out of or in connection with loss of or damage to the property of, death or injury, including fatal injury and disease, to third parties to the extent caused by the breach of contract, tort, negligence or breach of duty by the Customer.
10.4 Subject to clause 10.9 below, neither party shall be liable to the other for losses arising out of or in connection with the Agreement which are related to any business of the Customer (including but not limited to loss of actual or anticipated profits, loss of revenue, loss of opportunity, loss of business, loss of goodwill or reputation, increased business costs and expenses, loss of production or business interruption) in each case whether direct or indirect.
10.5 Neither party excludes nor limits liability for fraud or for death or personal injury arising from its negligence or any liability to the extent the same may not be excluded or limited as a matter of law; both parties agree to indemnify the other for any loss incurred under this clause 10.5.
10.6 The Customer acknowledges that in entering into the Agreement it has not relied on, and shall have no remedy in respect of, any warranty, representation, undertaking or agreement that is not set out in the Agreement, except in the case of fraud. The Customer will not have any claim for innocent or negligent misrepresentation based upon any statement in the Agreement.
10.7 Avanti Gas's maximum aggregate liability to the Customer in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, in respect of any Order shall be limited to the annual revenue it receives in any given 12month period under this Agreement or £100,000, whichever is the lesser, in aggregate over the Term of the Agreement.
10.8 Any indemnity or relief from or limit on liability in favour of a party under this Contract shall extend to and apply for the benefit of that parties' Affiliates, directors, employees, officers, servants and agents.
10.9 Within 30 days of each anniversary of the Effective Date throughout the Term, Avanti Gas shall review the Customer's actual Gas consumption against the Committed Consumption. Where the Customer has failed to meet the Committed Consumption, Avanti Gas shall be entitled to invoice the Customer for the profit margin Avanti Gas would have received as between the Customer's actual Gas consumption and the Committed Consumption.
10.10 Where the Customer is developing the Premises for sale or lease then In the event that the Customer sells or leases any of the Premises during the Term of this Agreement the Customer shall make it a condition of any associated sale or lease agreement, between the Customer and the purchaser or lessee, that the purchaser or lessee shall be obligated to enter into a standard supply agreement with Avanti Gas Limited.

11. Insurance

11.1 The Customer will maintain the following insurances in full force and effect during the whole period of this Agreement:
11.1.1 Workman's Compensation and/or Employers Liability Insurance in respect of the Customer's employees as required by local law;
11.1.2 General Third Party Liability Insurance in respect of its activities under this Agreement up to an amount of not less than £3,000,000 for any one occurrence.
11.2 The Customer shall, if so required by Avanti Gas, produce policies of such insurances together with the latest premium paid for inspection.

12. Suspension & Termination

12.1 Avanti Gas shall be entitled to terminate the Contract immediately if:
12.1.1 the Customer has committed a material breach of any of the terms or conditions of the Contract (whether or not such breach would otherwise qualify as a repudiatory breach at common law) which is either incapable of remedy, or if capable of remedy is not remedied within 14 days of service of written notice by the non-defaulting party requiring remedy, or commits a repetition of such breach;
12.1.2 the Customer stops or suspends or threatens to stop or suspend payment of all or a material part of its debts or is unable to pay its debts as they fall due;
12.1.3 an Insolvency Event occurs and is continuing in respect of the Customer;
12.1.4 the Customer ceases or threatens to cease to carry on all or a substantial part of its business; or
12.1.5 there is a change of ownership of the Customer's shares resulting in 50 percent or more of the issued share capital of the Customer becoming legally or beneficially the property of a new owner.
12.2 The Customer may terminate the Contract immediately if Avanti Gas commits any material breach of any of its obligations and does not remedy such breach within 14 days of written notice to do so, is subject to an Insolvency Event or has a receiving order made against it or enters into any arrangement with its creditors or suffers any distress or execution to be levied upon its assets.
12.3 The Contract shall automatically terminate in any event if the Customer vacates the Customer Premises and the remaining provisions of this clause 13 will apply.
12.4 Avanti Gas may terminate the Agreement immediately if, in the reasonable opinion of Avanti Gas, the results of a credit check conducted under clause 13 indicate that the Customer may be unable to comply with its payment obligations under the Contract or any other agreement entered into between the Customer and Avanti Gas.
12.5 Avanti Gas shall be entitled to terminate this Agreement on no less than 30 days' written notice to the Customer in the event that a third party supplier terminates its agreement to supply Gas to Avanti Gas, if and only if, Avanti Gas is unable, having used reasonable endeavours to do so, to acquire Gas from an alternative supplier at a price comparable to that which it would otherwise have paid its original supplier.
12.6 On termination of the Contract however occasioned, the Customer shall forthwith pay all sums due under the Contract including interest (if any) and allow Avanti Gas or its representatives unrestricted vehicular and pedestrian access to the Customer Premises (on reasonable notice) for the removal of the Equipment and any Gas contained in the Equipment. Subject to clause 12.10 below, the Customer shall pay Avanti Gas a reasonable fee for such removal.
12.7 No refund of Installation Charges or of the Price for any residual Gas will be payable to the Customer on termination of the Customer. It is recommended that Gas be used by the Customer prior to the Storage Tank(s) removal.
12.8 If the Contract is terminated and the Equipment is removed by Avanti Gas, the service pipe will be made safe by Avanti Gas.
12.9 If the Storage Tanks(s) is situated underground where the Contract is terminated by the Customer, or by Avanti Gas pursuant to clauses 12.1 or 12.3, subject to clause 12.10 below, the Customer shall pay to Avanti Gas the reasonable costs incurred by Avanti Gas in removing and repossessing the Equipment and reinstating the ground so as to make the same safe and where appropriate left with a top surface dressing of grass, soil or gravel but without imparting any obligation to reinstate or make good any areas adjacent to or in the vicinity of the Equipment which are necessarily disturbed in the course of Avanti Gas removing the Equipment.
12.10 If termination results from a material breach by Avanti Gas of its obligations under the Agreement, then Avanti Gas shall be liable for all of

the costs incurred in removing and repossessing the Equipment and reinstating the ground.

12.11 If in the reasonable opinion of either party it is either not possible or not practical for any or all Equipment to be removed, the Customer agrees to either:

12.11.1 purchase the Equipment from Avanti Gas and shall pay Avanti Gas a Fair Market Value for the Equipment. For the purposes of this clause, "**Fair Market Value**" means the price which that asset would otherwise achieve in the open market between a willing vendor and a willing purchaser; or

12.11.2 where appropriate, allow Avanti Gas to de-commission and render the Storage Tank(s) safe and permanently inoperable, by whatever method Avanti Gas decides, leaving the Storage Tank(s) in situ. The Customer shall pay Avanti Gas a reasonable fee for any such work under this Clause 12.11.2.

12.12 For the avoidance of doubt, where Avanti Gas has the right to terminate this Agreement this is inclusive of any and all accepted Orders that are outstanding under this Agreement at the point of termination.

13. Creditworthiness

13.1 Avanti Gas may at any time conduct a credit check of the Customer. Where pertaining to an individual, such credit checks shall be carried out in accordance with clause 13.3 against the Customer, or any partner or director or other employee of the Customer, for the purposes of ensuring that the Customer is, in the reasonable opinion of Avanti Gas, able to comply with its payment obligations under the Contract.

13.2 In the event that the Customer (or its partner or director):

13.2.1 fails to achieve what is, in the reasonable opinion of Avanti Gas, an adequate result in a credit check conducted under clause 13.1;

13.2.2 the Customer reaches the credit limit set for it by Avanti Gas at the commencement of the Agreement; or

13.3.3 Avanti Gas otherwise receives notification of a change in the financial performance of the Customer,

then Avanti Gas reserves the right to do any or all of the following upon notice to the Customer:

13.3.4 change the Customer's payment strategy to Pro Forma Supply;

13.3.4 amend the Customer's payment terms; or

13.3.5 insist on payment by Direct Debit.

13.3 If Avanti Gas does not consider the Customer's creditworthiness to be sufficient, it may request payment in advance or any of the following from the Customer, alone or in combination, in return for future supplies of Gas:

13.3.1 a refundable deposit, such time as, In Avanti Gas' reasonable opinion, the Customer has sufficient creditworthiness, whereupon Avanti Gay will repay any such deposit (without interest) when the Contract ends for whatever reason less any sums which are owed to Avanti Gas by the Customer;

13.3.2 a cross company guarantee from an Affiliate of the Customer in a form acceptable to Avanti Gas;

13.3.3 a personal guarantee from a director(s) of the Customer or its Affiliate.

13.4 Avanti Gas may process any personal data provided in accordance with the terms set out in the Privacy Policy and the Customer confirms that the person whose personal data is provided to Avanti Gas has consented to such processing. More detail about how Avanti Gas uses personal data is provided in Avanti Gas's Privacy Policy, as appended to this Agreement and available at https://www.avantigas.com/privacy-policy/customer-privacy-notice.

13.5 Whether or not the Customer makes an application for credit this Clause 13 shall be effective for the purposes of data verification.

14. Confidentiality

14.1 Each party undertakes that it shall not at any time disclose to any person any confidential Information concerning the business, affairs, customers, clients or suppliers of the other party or its Affiliates, except as permitted by clause 14.2.

14.2 Each Party may disclose the other party's confidential information:

14.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential Information comply with this Clause 14; and

14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

14.3 No party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.

14.4 No party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other party, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities commission), any court or other authority of competent jurisdiction.

14.5 Neither party may use or refer to the other party's trade marks, brand names or marketing insignia except with the prior written consent of and in accordance with such directions as may be given by that other party.

15. HSE

15.1 The Customer shall ensure that all persons (other than Avanti Gas' employees, agents or contractors) concerned with the operation, handling and use of Gas at the Customer Premises are aware of its properties and take all reasonable precautions in connection with the storage, handling and use of the same, subject also to Clause 8.6 as applicable.

15.2 Both Avanti Gas and the Customer shall each ensure that their respective operatives wear, as a minimum, flame retardant and antistatic trousers and jackets. Such personal protective equipment must comply with the relevant EN standards as a minimum.

16. Anti-Bribery

16.1 Both parties shall comply with the laws of the UK including the Bribery Act 2010 and they shall also comply with the 'Code of Business Conduct & Ethics (UK Version)' as published and amended from time to time by UGI Corporation, a copy of which will be made available to the Customer on request. Either party shall promptly report to the other any violation or suspected violation**.**

17. Hardship

17.1 If at any time Avanti Gas is of the view that there has been a substantial change in business, monetary or commercial conditions as a result of which Avanti Gas either (a) suffers or (b) expects to suffer material hardship in complying with this Agreement, Avanti Gas may notify the Customer in writing that it wishes to meet to review the terms of this Agreement in light of the changed business conditions

17.2 The Parties shall, within 30 days of the notice described under clause 17.1 being received, meet to discuss in good faith reasonable and appropriate means to alleviate or mitigate the effects of such hardship in a manner equitable to both Parties.

17.3 In the event that no agreement is reached within 30 days of the notice described under clause 17.1 being received then Avanti Gas may terminate the Agreement upon giving the Customer at least 5 days' notice in writing.

18. Force Majeure

18.1 Avanti Gas shall be entitled to delay or suspend the delivery of Gas in the event of any circumstances which have not been caused by Avanti Gas and are beyond its reasonable control including, but not limited to, severe weather conditions, industrial disputes, acts of god, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, pandemic or epidemic, lock-outs, strikes or other labour disputes, breakdown in plant or machinery, failure or disruption to transport systems and any discontinuance whether total or partial, permanent or temporary of any of Avanti Gas's or Avanti Gas's suppliers' sources, or contemplated sources, of Gas under the Agreement, or the means of delivery of Gas. Avanti Gas shall take reasonable steps to minimise the effect of such circumstances and to resume delivery of Gas as soon as is reasonably practicable (without incurring additional costs). During the continuance of such circumstances the Customer shall be entitled to obtain Gas from suppliers other than Avanti Gas at its own cost and the Committed Consumption (if any) shall be adjusted pro rata to reflect such period of force majeure. If deliveries remain suspended for more than 30 consecutive days, then either party shall be entitled to terminate the Contract forthwith by giving written notice to the other.

19. Waiver

19.1 No delay, omission or concession by either party in exercising any right, power or remedy provided by law or under the Contract shall affect that right, power or remedy or operate as a waiver of it. The single or partial exercise of any right, power or remedy provided by law or under the Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

19.2 Any concession that may be granted by either party with regard to any of the Contract shall be agreed in writing.

20. Assignment

20.1 The Customer shall not assign, sub-contract or transfer any of its rights or obligations under the Contract, either in whole or in part, without the prior written consent of Avanti Gas.

20.2 Avanti Gas shall be free to assign, sub-contract or transfer the Contract, either in whole or in part, to whom it so chooses. Any such assignment shall not relieve Avanti Gas of any of the liabilities or obligations owed to the Customer under the Contract.

21. Notices

21.1 Notices under the Contract shall be in writing and shall be sent to;

21.1.1 in the case of notices to Avanti Gas from the Customer, either the email address enquiries@avantigas.com or Avanti Gas' registered address;

21.1.2 in the case of notices to the Customer from Avanti Gas, either the email address the Customer currently has registered to its myavantigas portal (or such other email address as the Parties may agree that notices should be sent) or the Customer's registered address.

21.2 Notice sent by post shall be sent either by first class pre-paid post in which case it shall be deemed to have been given two Business Days after the date of posting; or personally delivered in which case it shall be deemed to have been given upon delivery at the relevant address; or if from or to any place outside the United Kingdom, sent by courier in which case it shall be deemed to have been given two Business Days after delivery to the courier.

22. Severance

22.1 Each and every obligation contained in the Contract shall be treated as a separate obligation and shall be severally enforceable as such notwithstanding the non-enforceability of any such other obligation.

23. Entire Agreement

This Contract constitutes the whole and only agreement between the parties relating to its subject matter and supersedes and extinguishes any other agreement, document or pre-contractual statement relating to the same subject matter. Each of the parties agree that in entering into this Contract, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding other than in the case of fraud or as expressly set out in this Contract.

24. Invalidity

24.1 If at any time any provision of the Contract is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair:

24.1.1 the legality, validity or enforceability in that jurisdiction of any other provision of the Contract; or

24.1.2 the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of the Contract.

25. Amendments and Variations

25.1 Avanti Gas may change (including removing or adding to) the terms of the Agreement unilaterally where the change is:

25.1.1 to reflect a change in industry practice or legal or regulatory requirements or recommendations, including the adoption of a voluntary code of practice;

25.1.2 to provide for the introduction of new or improved systems, methods of operation, services or facilities or the further development of existing ones;

25.1.3 to make them clearer or more favourable to the Customer;

25.1.4 to rectify any genuine mistake;

25.1.5 necessary for the introduction of new features or services which may be of benefit to the Customer or for the development of existing services; or

25.1.6 to reflect changes to the structure of Avanti Gas or its Affiliates.

25.2 Avanti Gas shall give the Customer at least 30 days' notice before making a change under this clause 25.1, unless it is to the Customer's advantage, in which case Avanti Gas may make the alteration immediately and advise the Customer of it within 30 days.

25.3 Avanti Gas shall advise the Customer of any changes by post, email or on either an invoice or statement.

25.4 Save for changes of the types listed in Clauses 9 and 25.1, no variation or amendment to the Contract shall be effective unless it is in writing, refers specifically to the Contract and is signed by a duly authorised representative of both parties.

26. Third Party Rights

26.1 Where any term in the Contract confers a benefit or benefits on a person, firm or company other than Avanti Gas (each a "Third Party Beneficiary") the parties intend that each Third Party Beneficiary shall be entitled by virtue of the Contracts (Rights of Thirds Parties) Act 1999 to enforce the benefits conferred on it by such clauses.

26.2 Except as provided in condition 26.1, the parties do not intend that any term of the Contract should be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the Agreement.

26.3 No variation or termination of the Contract, even if that variation or termination affects the benefit conferred on a Third Party Beneficiary, shall require the consent of any Third Party Beneficiary.

27. Governing Law and Jurisdiction

27.1 The Contract, and the contractual and non-contractual obligations arising from or relating to it, shall be governed by and construed in accordance with English law and the Parties agree to submit to the exclusive jurisdiction of the English courts in respect of any dispute arising under or in connection with it.