

# Firefly Propane, LLC

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## TERMS AND CONDITIONS

**PLEASE READ THIS DOCUMENT CAREFULLY! IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU.**

These terms and conditions ("T&Cs") apply to your purchase of goods and services offered by Firefly Propane, LLC ("Firefly") (the "Product"). By accepting delivery of any Product, you accept and are bound to these T&Cs. THESE T&Cs SHALL APPLY UNLESS YOU HAVE A SEPARATE PURCHASE AGREEMENT WITH FIREFLY, IN WHICH CASE THE SEPARATE AGREEMENT SHALL GOVERN.

1. **"Guaranteed ... you'll never run out" Program.** All participants in the Hassle Free and Barbeque Master service plans are automatically enrolled in the "Guaranteed ... you'll never run out" program (the "Program"). If you are a participant in the Program and run out of propane gas in two (2) barbeque tanks previously purchased from Firefly before Firefly delivers one (1) re-filled barbeque tank, you will receive one (1) free barbeque tank exchange. You are not eligible to receive a free barbeque tank exchange unless you notify Firefly no later than three (3) days after you run out of propane gas in the first barbeque tank and connect the second barbeque tank. Once you have notified Firefly, the re-filled barbeque tank will be promptly delivered to you.
2. **Refund Policy.** If, for any reason, your account was improperly charged, please contact Firefly at 1-888-3THE-FLY. Any applicable adjustments shall be refunded within five (5) business days upon receipt of request.
3. **Referral Program.** To the extent that Firefly offers a credit for helping your friends and neighbors enjoy the benefits of being a Firefly customer, you will receive your credit after your referral receives their first barbeque tank delivery. Or other service from Firefly Propane.
4. **Payment Terms; Orders.** Terms of payment are within Firefly's sole discretion, and unless otherwise agreed to by Firefly, payment must be received by Firefly prior to Firefly's acceptance of an order. Payment for any Product shall be made by cash, credit card or some other prearranged payment method. If you will pay by credit card, a credit card authorization form must be completed prior to acceptance of an order. Firefly may invoice parts of an order separately. Firefly is not responsible for pricing, typographical, or other errors, in any offer by Firefly and reserves the right to cancel any orders resulting from such errors.
5. **Taxes.** Unless you provide Firefly with a valid and correct tax exemption certificate applicable to your purchase of a Product and the Product ship-to location, you are responsible for sales and other taxes associated with an order.
6. **Warranties.** FIREFLY SHALL PASS ON ANY MANUFACTURER WARRANTY (IF

ANY) BUT FIREFLY ITSELF MAKES NO WARRANTIES REGARDING ANY PRODUCT THAT HAS BEEN PURCHASED FROM FIREFLY. ALL STATUTORY, EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, A WARRANTY OF MERCHANTABILITY AND A WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED, WAIVED AND SPECIFICALLY DENIED BY FIREFLY.

7. **Limitation of Liability.** FIREFLY DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH HEREIN, INCLUDING, BUT NOT LIMITED TO, ANY LIABILITY FOR ANY PRODUCT NOT BEING AVAILABLE FOR USE, LOST PROFITS, LOSS OF BUSINESS OR FOR LOST OR CORRUPTED DATA OR SOFTWARE, OR THE PROVISION OF SERVICES AND SUPPORT. EXCEPT AS EXPRESSLY PROVIDED HEREIN, FIREFLY WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. FOR ANY LIABILITY RELATED TO THE PURCHASE OF ANY PRODUCT, FIREFLY IS NOT LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE AMOUNT INVOICED FOR THE APPLICABLE PRODUCT. NOTWITHSTANDING ANYTHING IN THESE T&CS TO THE CONTRARY, THE REMEDIES SET FORTH IN THESE T&CS SHALL APPLY EVEN IF SUCH REMEDIES FAIL THEIR ESSENTIAL PURPOSE.
8. **GOVERNING LAW.** THESE T&CS OR ANY CLAIM, DISPUTE OR CONTROVERSY BETWEEN YOU AND FIREFLY ARISING FROM OR RELATING TO THESE T&CS (INCLUDING, BUT NOT LIMITED TO, THE INTERPRETATION OR VALIDITY HEREOF), THE RELATIONSHIPS THAT RESULT FROM THESE T&CS, FIREFLY'S ADVERTISING, OR ANY PURCHASE BY YOU OF ANY PRODUCT SHALL, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAWS PROVISION OR RULE (WHETHER OF THE STATE OF NEW YORK OR ANY OTHER JURISDICTION) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF NEW YORK. ANY ACTION OR PROCEEDING ASSERTING ANY CLAIM BY YOU AGAINST FIREFLY OR BY FIREFLY AGAINST YOU MAY ONLY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK, COUNTY OF WESTCHESTER AND YOU HEREBY IRREVOCABLY COMMIT TO THE JURISDICTION OF SUCH COURTS (AND OF THE APPROPRIATE APPELLATE COURTS) IN ANY SUCH ACTION OR PROCEEDING AND WAIVE ANY OBJECTION TO VENUE LAID THEREIN.
9. **Severability.** These T&Cs are intended to be severable. If, for any reason, any provision of these T&Cs are found to be invalid or unenforceable, in whole or in part, in any jurisdiction, it is agreed that the balance of these T&Cs shall continue in full legal force and effect, to the extent permissible.
10. **Headings.** The section headings used herein are for convenience of reference only and do not form a part of these T&Cs, and no construction or inference shall be derived there from.