

BOC GENERAL CONDITIONS OF SALE SEPTEMBER 2009

For the purposes of these Conditions: "Agreement" means the contract between BOC and the Customer for the supply of goods and/or services; "BOC" or "we" means BOC Gases Ireland Limited (and any other company which is a subsidiary of BOC Gases Ireland Holdings Limited); "BOC Container" means any container, cylinder or other storage vessel provided by BOC in which gas is stored; "Customer" or "you" means the person entering into the Agreement with BOC; "Equipment" means the storage vessel(s) and other equipment used in connection with the supply of goods and/or services under this Agreement (whether owned by BOC or the Customer as the case may be) or, for the purposes of Section IV of these Conditions, any goods sold by BOC other than gas; "gas" means any gas or gas mixture supplied by BOC including liquefied, solidified, compressed or dissolved gas; "HCM" means 100m³ of gas measured at 1013.25 millibars and 15 degrees centigrade; and "Safety Data Sheet" means a sheet prepared by BOC containing material safety and other data relating to the applicable gas.

SECTION I – PRICING, WARRANTY OF GAS AND SUPPLY OF SAFETY DATA SHEETS AND SAFETY LITERATURE. This section covers pricing of gas and associated BOC Containers, Equipment and services, the BOC warranty given in respect of gas and the supply of Safety Data Sheets and safety literature.

1. PRICE STRUCTURE

- (a) The price charged by BOC to the Customer covers the supply of gas, collection, delivery and/or exchange and rental of the BOC Containers and Equipment provided by BOC.
- (b) There may also be charges associated with the installation, commissioning or removal of BOC Containers and Equipment from the Customer's premises.
- (c) An additional charge may be payable when BOC Containers are supplied by certain BOC agents.
- (d) The price for services (save as included in (a) above) will be as agreed between BOC and the Customer.

2. PRICE VARIATION

- (a) The price for gas, BOC Containers, Equipment and services shall be the price effective at the time of supply. Unless specifically quoted as a fixed price for a specific period or agreed otherwise in writing, all prices are subject to variation from time to time by BOC which shall notify or publish such variations to the Customer accordingly.
- (b) Factored gases: BOC buys some gases from other suppliers. BOC may adjust the price of these factored gases if its suppliers change the price they charge BOC.

3. SPECIFICATION OF GAS

- (a) BOC warrants that at the time of delivery, gas is to the purity set out in the Safety Data Sheet relating to that gas.
- (b) If a specific purity, tolerance or stability is required, the Customer shall notify BOC who in consultation with the Customer shall make suitable arrangements for supply. If the supply arrangements result in any additional cost to BOC this will be passed on to the Customer.
- (c) Medical gases: BOC warrants that at the time of delivery the gas is to the purity set out in the BOC Product Authorisation as issued by the Irish Medicines Board or its successor and detailed in the Safety Data Sheet relating to that gas. BOC will only supply those Customers who can demonstrate that they are authorised to use and prescribe medical gases.
- (d) Save as set out in (a) – (c) above or as specified in the Safety Data Sheet for a particular gas, BOC does not guarantee or warrant that gas is suitable for the use or process for which the Customer intends to use the gas.

4. BOC SAFETY DATA SHEETS AND SAFETY LITERATURE

- (a) BOC Safety Data Sheets are supplied with the first consignment of each gas or as soon as practicable thereafter. If further copies of these or copies of BOC safety booklets are required, these can be obtained by contacting BOC via telephone, e-mail, the applicable BOC website or writing, in each case to the address or on the number as notified by BOC to the Customer.
- (b) Single copies of safety booklets will be supplied free of charge by BOC.

SECTION II – GENERAL. This section applies to all contracts for the sale of goods, rental of BOC Containers and Equipment and the provision of services.

1. DELIVERY/COLLECTION & INSTALLATION/ COMMISSIONING

- (a) Save as set out below or as otherwise agreed, BOC will supply gas against orders placed by the Customer.
- (b) Bulk gas and gas in trailers: for scheduled deliveries, BOC will deliver gas in appropriate quantities and frequency having regard to the Customer's average gas consumption rate and the BOC Container storage capacity.
- (c) The Customer acknowledges that collection of BOC Containers from a BOC site or agent shall be at its own risk and that it is responsible for handling and transporting the load safely, training the driver on the hazards of the goods and compliance with all relevant legislation including the Carriage of Dangerous Goods by Road Act 1998.
- (d) Subject to Condition 7(e) BOC's delivery/collection note will be conclusive evidence of delivery and quantity of the goods.
- (e) Failure by BOC to deliver or perform by any time specified shall not entitle the Customer to terminate the Agreement.
- (f) If full delivery cannot be made due to the Customer's act or omission, such goods shall be deemed to have been delivered and BOC may charge for abortive journeys or part deliveries and for storage of goods until delivered.
- (g) BOC will supply gas into Customer owned containers considered suitable by BOC by special arrangement with the Customer. Such supply is subject to container examination and testing when necessary in accordance with BOC procedures and applicable statutory requirements at the Customer's cost.
- (h) BOC may suspend deliveries of gas if the gas storage or handling Equipment or process Equipment is considered by BOC not to be safe.
- (i) BOC may increase its charges for the installation and/or commissioning of BOC Containers and Equipment in order to cover the extra costs incurred by it as a result of additions or variations to installation or commissioning requested by the Customer or for delays within the control of the Customer or if BOC reasonably considers removal of the BOC Containers and Equipment necessary for reasons of safety or access.

2. BOC EQUIPMENT AND OTHER PROPERTY

- (a) Except as provided in Condition 2(b) or as otherwise agreed by BOC, the Customer shall not refill or allow the refilling of BOC Containers or let them be used otherwise than for storage, transport or use of gas placed in them by BOC.
- (b) Subject to the next sentence, BOC Containers will only be used for handling gas supplied by BOC. While BOC is unable to supply liquid/bulk gas, the Customer may use BOC bulk storage containers for handling equivalent gas obtained from another source, provided that the Customer notifies BOC in advance. BOC shall have no liability whatever in relation to any such supply and the Customer shall indemnify BOC against all claims, costs, expenses or liabilities resulting from such supply.
- (c) BOC Containers and Equipment will comply with any technical specifications provided by BOC and applicable legal and statutory requirements. BOC does not

warrant that BOC Containers and Equipment are suitable for the Customer's intended use or process.

- (d) BOC will maintain BOC Containers and Equipment in accordance with BOC procedures and current safety requirements. If this requires interruption of supply this will, whenever possible, be by arrangement with the Customer. If the Customer causes undue delay to BOC's maintenance service, BOC may charge for its time spent and for travelling time and other expenses incurred.
- (e) BOC retains all intellectual property rights in its drawings, specifications, data and all other information and documents prepared by BOC for the Customer in whatever medium.

3. CUSTOMER'S DUTIES AND RESPONSIBILITIES

- The Customer shall:
- (a) provide free of charge adequate and safe access to the Customer's premises, information, documents and facilities (including labour for loading and unloading of goods, BOC Containers and Equipment) for BOC to carry out its duties and rights under the Agreement;
 - (b) be responsible for the safe custody of BOC's and its sub-contractors' property left on the Customer's site for the purposes of installation, commissioning, maintenance and removal of BOC Containers and/or Equipment;
 - (c) insure BOC Containers and Equipment to their full replacement cost against "all risks" and against all normal public liability risks. All insurance shall be on terms satisfactory to BOC and shall include a waiver of subrogation;
 - (d) ensure that all work and materials for which the Customer is responsible meet and comply with all legal and statutory requirements and with BOC's specifications;
 - (e) obtain all necessary consents and comply with all legal obligations in connection with installation or use of any goods supplied or BOC Containers or Equipment provided to the Customer, or work done on the Customer's site;
 - (f) notify BOC if at any time it anticipates a significant change in its gas consumption rate;
 - (g) keep and return all BOC Containers and Equipment in a clean and serviceable condition. If they are not, the Customer will report any loss or damage promptly and pay a sum equal to (i) the cost of new BOC Containers and Equipment if BOC Containers and Equipment are lost or damaged beyond repair, or (ii) the cost of restoring BOC Containers and Equipment to a clean and serviceable condition;
 - (h) not mortgage, pledge, sell, lend or part with possession of BOC Containers and Equipment to a third party;
 - (i) not obliterate, remove or deface identification marks or notices on the BOC Containers and Equipment and/or alter or tamper with BOC Containers and Equipment without the prior written consent of BOC;
 - (j) comply with any operating manual (or other instructions) provided, and not otherwise adjust, repair or interfere with BOC Containers and Equipment;
 - (k) be responsible for the safety and condition and comply with applicable legal requirements in respect of Customer owned Equipment and attachments to BOC Containers and Equipment beyond the agreed take over point; and
 - (l) be responsible for any risks to health or safety from BOC goods and property in the Customer's possession and/or control. The Customer's attention is drawn to the fact that statutory regulations and recognised codes of practice exist covering the use, handling, processing, storing and transporting of gas and BOC Containers and Equipment. The Customer must ensure that persons who use, handle, process, store or transport BOC gas, BOC Containers and Equipment receive adequate training and safety literature.

4. TITLE AND RISK

- (a) All goods sold remain the property of BOC until the Customer has paid for them and has paid all other outstanding amounts due and payable to BOC.
- (b) BOC Containers and other hired Equipment remain, as between BOC and the Customer, the property of BOC and are supplied to the Customer for the Customer's sole use.
- (c) The Customer shall have no rights over any other property of BOC or its contractors brought onto the Customer's site.
- (d) The risk in goods hired or sold passes to the Customer upon delivery to or collection by the Customer.

5. GAS RE-SALE

- (a) Gas supplied by BOC may be re-sold provided that prior to any re-sale the Customer has:-
 - (i) demonstrated to BOC's reasonable satisfaction that it has the capability to re-sell safely; and
 - (ii) the Customer indemnifies BOC to BOC's satisfaction against liability to any third party and costs in respect of alleged defects in gas and injury, damage, loss or expenses caused thereby unless proved beyond reasonable doubt to have been in existence when the gas was supplied by BOC.
- (b) The Customer shall be entirely responsible for providing proper instructions, warnings and other safety information in connection with any re-sale of gas.
- (c) Gas shall not be re-sold in BOC Containers except with specific written agreement between BOC and the Customer save in the case of balloon gas and, refrigerant gas.

6. PRICE AND PAYMENT

- (a) Unless otherwise agreed, rental charges for BOC Containers and Equipment are payable in advance from either (i) collection or delivery or (ii) the date of installation (as determined by BOC), as the case may be. If delivery, installation or commissioning of BOC Containers and Equipment cannot be carried out on the agreed date(s) due to the Customer's act or omission, BOC may charge the rental charge or a proportion thereof during the period of delay.
- (b) When a Customer hires BOC Containers and Equipment which are additional to and of the same gas type as BOC Containers and Equipment already hired on a yearly payment frequency these BOC Containers and Equipment will be charged to the Customer on a pro rata basis reflecting the number of months up to the next yearly payment.
- (c) Normal terms of payment are by direct debit. Full payment of invoices in cleared funds must be received by BOC by the end of the month following the month of delivery of the goods or services.
- (d) The Customer shall ensure that any payment of invoices by direct debit is made in full by the Customer's bankers on presentation to them by BOC of invoice information. An additional charge will be payable where the customer pays by a method other than direct debit.
- (e) In relation to payment by debit card, credit card or charge card, the Customer will be charged when BOC systems confirm to BOC that the goods or services to be paid for by the Customer have been supplied. Where, with the prior agreement of BOC, the Customer pays by debit card, credit card or charge card for the rental of BOC Containers or Equipment the Customer will be charged at the time the billing process is actioned internally by BOC. Where the Customer pays by debit card, credit card or charge card in any other circumstances, BOC reserves the right to charge any additional costs BOC has incurred as a result of such payment being made by debit card, credit card or charge card.
- (f) BOC should be notified immediately of any error on an invoice.
- (g) If any payment is overdue BOC may stop the delivery of goods or provision of services to the Customer and payment shall become immediately due for all goods

- and services supplied under any contract with the Customer.
- (h) BOC may charge interest on any amount overdue at the statutory rate provided for pursuant to the European Communities (Late Payments in Commercial Transactions) Regulations, 2002. Such interest shall be payable on demand. Furthermore, BOC reserves the right to claim compensation for debt recovery costs set out in the same legislation where we are not paid according to agreed credit limits.
- (i) All prices and charges are expressed exclusive of VAT which shall be charged and paid as applicable.
- (j) If at any time BOC's costs change due to government action or to a change in the law, BOC reserves the right to adjust prices to take account of such change in its costs.
- (k) Where BOC charges rent on BOC Containers and Equipment, payment of a BOC Container and Equipment rental invoice is deemed conclusive (subject to transactions prior to the date of invoice which have not been included in the invoice and to (m) below) as to the Customer's holding of BOC Containers during the period to which the invoice relates.
- (l) If the Customer has a BOC Container and Equipment holding greater than recorded, BOC reserves the right to amend its records and charge the Customer rental accordingly.
- (m) Where BOC Containers and Equipment are on a monthly payment frequency, a full month's rental is payable for each calendar month or part of a calendar month during which the BOC Containers and Equipment are hired. Where BOC Containers and Equipment are on a yearly or longer payment frequency, the period covered by the first rental payment for the BOC Containers and Equipment is calculated from the beginning of the calendar month in which the BOC Containers and Equipment are first hired to the Customer.
- (n) If the Customer returns BOC Containers and Equipment without taking replacements before the rental period paid for expires, a pro rata refund will be made for any whole month(s) un-expired.
- (o) BOC shall have the right upon reasonable notice to enter the Customer's premises to audit and inspect BOC Containers and Equipment.
- 7. LIABILITY AND EXCLUSIONS**
- (a) BOC's liability is as set out in this Condition 7 and where the Agreement includes the inspection and maintenance of Customer owned Equipment and/or the sale of Equipment by BOC, the applicable Conditions. Save as set out in this Condition 7, BOC shall have no liability (whether in contract, tort, misrepresentation or otherwise) for any other loss or damage including (without limitation) loss of or damage to revenue, profits, savings, use, contracts, goodwill or business and any consequential or indirect loss or damage. Nothing in the Agreement shall however be deemed to limit or exclude BOC's liability for fraud or fraudulent misrepresentation.
- (b) BOC accepts unlimited liability for death or personal injury to the extent that it results from BOC's negligence.
- (c) BOC accepts liability for physical damage to property to the extent that it results from breach of contract or BOC's negligence in connection with the performance of the Agreement subject to a limit of euro 250,000 for each single event or series of connected or similar events. Any other losses flowing from physical damage to property shall be limited pursuant to Condition 7(d).
- (d) BOC accepts liability, to the extent that it results from breach of contract or BOC's negligence in connection with the performance of the Agreement, for losses, costs, expenses or damage (in addition to and independent of BOC's liability under Condition 7(c)):
- (i) caused by BOC supplying any defective gas, up to a limit of euro 5,000 for any one incident, or if greater, 25% of BOC's anticipated monthly revenue generated under this Agreement at that time, for any one incident;
- (ii) arising from delay or failure by BOC in delivery of any gas up to a limit of an amount equal to BOC's price for the gas that BOC has failed to deliver or if greater, 25% of BOC's anticipated monthly revenue generated under this Agreement at that time, for any one incident; or
- (iii) resulting from the provision of technical advice by BOC in return for a specific fee, up to a limit of the amount of the fee received for such advice.
- (e) BOC shall not be liable for any shortage, loss, damage or discrepancy in goods unless notified to BOC in writing within (i) 5 working days of receipt of goods (except for gas) by the Customer or (ii) in the case of gas 10 working days of receipt of gas by the Customer. This exclusion of liability shall not apply if the Customer proves that it was not reasonably possible to notify BOC within this time period, and such notification was given as soon as was practicable and in any event within 5 working days (in the case of goods except for gas) or 10 working days (in the case of gas) after the Customer became aware, or could reasonably be expected to have become aware, of the claim. If acceptance tests are provided in the Agreement for goods this Condition 7(e) shall not apply to such goods and the Customer shall be deemed to have accepted the goods upon successful completion of those tests.
- (f) Where any shortage, loss, damage or discrepancy in goods is notified to BOC in accordance with Condition 7(e), BOC shall at its option rectify the shortage, loss, damage or discrepancy in the goods free of charge or refund or forego an appropriate proportion of the price for the goods.
- (g) If either party's performance of any contractual obligation by its normal means is prevented or delayed due to force majeure that contractual obligation shall be suspended during the period that the party invoking the force majeure is affected by such cause. Force majeure means any cause beyond the reasonable control of the party invoking the force majeure, which shall include without prejudice to the generality of the foregoing, Acts of God, explosions, floods, fire, accident, war, strikes, lock-outs or other industrial action or trade disputes, breakdown of plant, transport and Equipment.
- (h) All warranties and conditions which arise from statute and relate to the supply of goods and services are excluded from the Agreement except to the extent that such exclusion is prevented by the Sale of Goods Act 1893, the Sale of Goods and Supply of Services Act 1980 and the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995.
- (i) Where the Customer deals as a consumer the Customer's statutory rights are unaffected by these Conditions.
- (j) The Customer shall be liable for any loss, damage or claims arising from BOC or its contractors' presence on the Customer's site except to the extent caused by the breach of contract or negligence of BOC or its contractors.
- (k) Technical advice supplied to the Customer by BOC shall be prepared in good faith, in the context of the law in force as at the date of its preparation and on the basis of the matters and information disclosed by the Customer to BOC. BOC accepts no responsibility for subsequent changes in law which may affect the conclusions of and/or recommendations in technical advice or for any loss or damage incurred or suffered by the Customer arising out of a failure by the Customer to disclose facts or circumstances necessary for the preparation of technical advice.
- (l) The Customer and BOC both recognise that it is open to either party to consider insuring against the risks apportioned in this Condition 7.
- 8. BREACH AND TERMINATION**
- (a) 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, or manager appointed or goes into liquidation (except for the purpose of solvent reconstruction or amalgamation) or enters into a voluntary

arrangement with its creditors or ceases or threatens to cease to carry on business, or if the Customer commits any material breach of any provision of the Agreement and such material breach if capable of remedy is not remedied by the Customer within 28 days of written notice from BOC then BOC may immediately by written notice to the Customer either:

- (i) terminate the Agreement or any part, or
- (ii) suspend performance of all or any of its obligations, and at any time during such suspension terminate the Agreement or any part.
- (b) If BOC has a receiver, or manager appointed or goes into liquidation (except for the purpose of solvent reconstruction or amalgamation) or enters into a voluntary arrangement with its creditors or ceases or threatens to cease to carry on business, or if the BOC commits any material breach of any provision of the Agreement and such material breach is not remedied by the BOC within 28 days of notice from the Customer then Customer may by written notice to BOC terminate the Agreement. Termination shall be without prejudice to any accrued rights of either party.
- (c) On suspension or termination, BOC may recover possession of any goods belonging to or provided by it (including, where relevant, any of the Customer's gas in BOC Containers and Equipment), and the Customer irrevocably authorises BOC to enter its premises for this purpose. Credit will only be given for unused gas at BOC's discretion.
- (e) BOC will charge the Customer for the reasonable costs of removal of BOC Containers and Equipment.
- (f) If this Agreement is terminated and any charges which are payable in instalments are outstanding an amount representing the outstanding instalments shall become due and payable by the Customer on termination of this Agreement.

9. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

- (a) BOC warrants that goods sold by BOC which are of BOC's standard manufacture (but not any particular use of such goods) are free of third party patent or other intellectual property restrictions in the Republic of Ireland and the Customer accepts full liability for any infringement of patent and other intellectual property rights not covered by the above warranty.
- (b) BOC's trade marks and names shall not be used otherwise than as applied by BOC to goods and services.
- (c) No right or licence is granted under the Agreement to the Customer under any patent, trade mark, copyright, registered design or other intellectual property right, except the right to use or re-sell the goods. No warranty is given as to whether that use or re-sale will infringe the rights of any third party.
- (d) Any know how, information or documents supplied at any time by BOC to the Customer shall be treated as confidential by the Customer and shall not be disclosed to any third party or used for any purpose other than for the purpose of the Agreement without the prior written consent of BOC, unless and until the same is public knowledge other than through default of the Customer or comes into the Customer's possession bona fide from a third party.

10. GENERAL

- (a) If by arrangement with the Customer, gas, BOC Containers, Equipment or services are supplied to any person who is not a party to the Agreement, the Customer shall procure that such person agrees to be bound by the terms of the Agreement as though a party to the Agreement. The Customer shall indemnify and hold harmless BOC against any consequences (including any claim made by such person which he could not make if a party to the Agreement) of the Customer failing to do so or of such person not fulfilling its obligations under the Agreement.
- (b) Any variation or waiver of the Agreement must be expressly agreed in writing by both parties. A failure to enforce or delay in enforcing a right or remedy in the Agreement does not constitute a waiver of that right or remedy.
- (c) If any provision of the Agreement is or becomes invalid, illegal or unenforceable in any way under any law, it shall to the extent of such invalidity, illegality or unenforceability be deemed severable and the remaining provisions of the Agreement and the remainder of such provision shall continue in full force and effect.
- (d) This document together with any other document agreed by BOC and the Customer constitute the whole and only agreement between the parties relating to the supply of goods and/or services by BOC to the Customer and supersede any previous forms of BOC Gases General Conditions of Sale supplied to you by us. Unless otherwise agreed in writing by BOC, no terms or conditions endorsed upon, delivered with or contained in the Customer's acceptance or acknowledgement of this Agreement, purchase order(s), specifications or similar documents will amend or vary the provisions of this Agreement and the Customer waives any right which it might otherwise have to rely on such terms and conditions.
- (e) The Agreement shall be deemed to have been made in the Dublin Metropolitan Court Area and shall be subject to the laws of Ireland.

SECTION III. INSPECTION AND MAINTENANCE OF CUSTOMER OWNED EQUIPMENT. This section applies where BOC agrees to inspect and maintain specified items of the Equipment.

Where BOC agrees to provide inspections and maintenance of Customer owned Equipment (the 'Customer Equipment'):

- (a) BOC will inspect the Customer Equipment at the Customer's cost unless otherwise agreed prior to commencement of the inspection and maintenance service. This inspection will be conducted to assess the overall condition of such Equipment with regard to maintenance, safety and legal requirements.
- (b) The Customer will make available at such inspection all available drawings, test certificates and maintenance inspection reports applicable to the operation of the Customer Equipment.
- (c) BOC reserves the right to refuse to supply maintenance services if remedial work which BOC considers is essential to the safe operation of the Customer Equipment is not carried out.
- (d) Following the inspection and agreement on recommended remedial work, the parties will agree the items of Customer Equipment for which BOC shall have inspection and maintenance responsibility and the frequency of inspections and maintenance. BOC shall carry out inspections and preventative maintenance having regard to legal requirements and good safety practices and in accordance with BOC's Planned Preventative Maintenance Schedule as notified to the Customer. As evidence of inspection, BOC shall provide an inspection certificate. This shall reflect the condition of the Customer Equipment at the time of inspection and shall not in any way be a warranty of, or render BOC liable for, the condition or fitness for purpose of the Customer Equipment. On completion of maintenance BOC will provide the Customer with a copy of BOC's completed maintenance report detailing the maintenance carried out. The Customer shall be responsible for the safe retention of all inspection and maintenance documentation provided by BOC.
- (e) BOC shall, having regard to other commitments and availability of suitably skilled staff, respond as quickly as possible to any request by the Customer for work outside the scope of the Planned Preventative Maintenance Schedule. If no specific price or charging basis for such work is agreed in writing, the Customer shall pay for all materials and expenses at BOC's then current list price and for time at BOC's then current labour rate including travel time to and from BOC's base.
- (f) If BOC requires to interrupt supply of gas from or through Equipment in order to carry out maintenance this will be by prior arrangement with the Customer except in an emergency.
- (g) The Customer shall report any unsatisfactory operation of the Customer Equipment

- and changes of layout or withdrawals from service of the Customer Equipment promptly to BOC. Where an item of Customer Equipment is withdrawn from service by the Customer, the Customer and BOC will agree an appropriate adjustment to the inspection and maintenance charges applicable during the remainder of the period of services.
- (h) The Customer shall make Customer Equipment available for service at the time agreed. If the Customer causes undue delay to the BOC engineer's work, then BOC may charge for the time spent and where appropriate for travelling time, call time and expenses incurred.
 - (i) Maintenance charges do not include items of Customer Equipment in need of replacement or repair. BOC shall notify the Customer of such items and should the Customer require such work to be carried out BOC will charge in the manner described in Condition (e) above.
 - (j) BOC reserves the right to delete any item of Customer Equipment from the scope of the Agreement if BOC considers the Customer Equipment unserviceable for any reason, in which event BOC will notify the Customer and agree an appropriate reduction in the maintenance charges applicable during the remainder of the period of maintenance services.
 - (k) BOC disclaims all responsibility for the proper functioning and maintenance of the Customer Equipment if the Customer has, without BOC's consent, allowed the Customer Equipment to be worked on or repaired, save in the course of proper operation, by anyone other than a BOC engineer.
 - (l) Where BOC telemetry is installed, the Customer is responsible for ensuring that the power supply and telephone line to the telemetry system is operational. In the event of failure of the telemetry system for whatever reason the Customer shall then be responsible for stock monitoring and placing orders for delivery of Gas.
 - (m) If damage, maloperation, or breakdown of Customer Equipment serviced or repaired by BOC is due to failure on BOC's part to carry out such work correctly, BOC shall:
 - (i) repay a proportionate amount of the maintenance charge appropriate to the items of Customer Equipment concerned; or
 - (ii) at BOC's discretion, at no cost to the Customer for materials or labour either rectify the damage, maloperation or breakdown or replace the item of Customer Equipment concerned.

SECTION IV - SALE OF EQUIPMENT. This section applies to all sales of Equipment by BOC.

1. WARRANTY

- (a) BOC undertakes to repair or, at its option, replace equipment sold by BOC of its own manufacture or parts thereof and works carried out by BOC which fail (fair wear and tear excepted) as a result of a defect in BOC's materials or workmanship, arising within 12 months of the sale of the equipment to the Customer or the execution of works by BOC, as appropriate (or within such other period as may be specified by BOC in the Agreement having regard to the nature and properties of the equipment or services concerned), and occurring under normal conditions and subject to proper storage, use and maintenance, provided that:
 - (i) the Customer notifies BOC promptly in writing with details of any alleged defects or malfunction;
 - (ii) the Customer gives BOC or its agent the opportunity to inspect the equipment and, if BOC so requests, the equipment is returned promptly carriage paid (and details of carriage notified in writing to BOC in advance); and
 - (iii) the equipment has not been repaired, tampered with, modified or altered by anyone other than BOC or its agents.
- (b) In the case of equipment or parts sold by BOC not of BOC manufacture, the Customer shall be entitled (subject to compliance with Condition 1(a) above) only to the benefit of any guarantee BOC may have from the supplier or manufacturer provided that subsequent purchasers are entitled to the benefit of that guarantee.
- (c) If equipment sold by BOC is found to be defective, BOC undertakes to refund the Customer's reasonable expenses incurred in returning the equipment to BOC or to BOC's order.
- (d) BOC may at its option elect to refund or forego the contract price and take back the equipment sold in full satisfaction of any liability or obligation under Condition 1(a) and (b) above.

- (e) Where the Customer deals as a consumer (that is, does not deal in the course of a business nor hold himself out as doing so and where the goods passing under the Agreement to the Customer are of a type ordinarily supplied for private use or consumption), Conditions 1(a) and 1(d) shall not affect the Customer's statutory right to reject goods.

2. OTHER TERMS

The terms and conditions for the sale of equipment to the extent not already covered by previous sections of these Conditions shall be specifically agreed in writing between BOC and the Customer.

SECTION V – PROVISION OF SERVICES. This section applies to the provision of services by BOC to the extent not already covered by previous sections of these Conditions.

- (a) The terms and conditions for the provision of services to the extent not already covered by previous sections of these Conditions shall be specifically agreed in writing between BOC and the Customer.

SECTION VI - DATA PROTECTION

- (a) Data protection legislation places obligations on users of personal data and lays down principles for its use. One principle states that personal data has to be processed fairly and lawfully. This means that you are entitled to know how BOC intends to use any personal data provided by you. Personal data is any information that relates to a living individual who can be identified from that information.
- (b) BOC will use personal data provided by you in the following ways:
 - (i) primarily in order to provide the agreed goods and services and for invoicing, account maintenance, record-keeping, statistical analysis and internal reporting and research purposes. This may involve disclosing the personal data to our data processors, agents, sub-contractors and other companies within the BOC group of companies;
 - (ii) to obtain credit reference checks and for debt collection and fraud prevention purposes. This may involve disclosing personal data to licensed credit reference agencies, debt collection agencies and lawyers. The credit reference agencies will maintain a record of the personal data supplied by us. This may be used by lenders to make decisions on future applications for credit; and
 - (iii) occasionally, to inform you about other goods and services which we think that you may be interested in. This may involve disclosing the personal data to other companies within the BOC group of companies and to our data processors, agents and sub-contractors. You may opt out of receiving this information by ticking the appropriate box in the account opening form signed or to be signed by you at the time of opening your account with BOC or at any time by contacting BOC at Bluebell, Dublin12 (for the attention of: The Company Secretary).
- (c) We will also provide personal data to any Government Department, public body or other third party where we believe in good faith that the law requires this or in the interests of public health and safety or in the event of an emergency. In addition, we will provide personal data to third parties if authorised by you to do so.
- (d) For the majority of our customers, we will carry out all of the above activities within the European Economic Area and will not transfer personal data outside the European Economic Area. For the small proportion of our customers where it is necessary to transfer personal data outside the European Economic Area, we will take appropriate steps to ensure the same level of protection for the personal data as there is in the European Economic Area and that the personal data is used to carry out the activities above.
- (e) We (or reputable organisations selected by us) may monitor and/or record telephone conversations to or from you in order to offer you additional security, resolve complaints, improve our service standards and for staff training purposes.
- (f) Occasionally, where we are supplying medical goods and services, we may ask you to provide sensitive personal data relating to your physical condition. If so, we will ask for your explicit consent to allow us to process this data and treat it in the strictest confidence.