



Standard Terms and Conditions

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Thank you for using Coregas. This booklet contains our Standard Terms and Conditions for Coregas Goods and Services.

Please ensure you have read and understood these Terms and Conditions.

1 DEFINITIONS AND INTERPRETATION

1.1 In these Standard Terms and Conditions, unless the context otherwise requires:

“**Australian Consumer Law**” means Schedule 2 of the Competition and Consumer Act 2010 (Cth) and the corresponding provisions of State Fair Trading legislation;

“**Change of Control Event**” means a change (whether by way of sale, grant of trust, contractual arrangement, court order, or otherwise) in a party or parties that Controls the Customer;

“**Change of Law**” means any enactment or promulgation of any new law or regulation or the amendment of any law or regulation existing, including any law or regulation relating to the imposition or change in any tax (other than income tax), impost, fee, charge, excise or levy, in Australia or New Zealand which results in an increase or decrease, as applicable, in the actual costs incurred by Coregas in supplying the Goods under these Standard Terms and Conditions;

“**Confidential Information**” means the terms of this Contract and Coregas’ information made available to the Customer at any time together with any information that concerns the business, intellectual property, operations, finances, plans or Customers of Coregas (or its Related Bodies Corporate) disclosed to or acquired by the Customer (including any information that is derived from such information), but does not include information which:

- (a) is or becomes public knowledge other than by a breach of this Contract;
- (b) is in the possession of the Customer without restriction in relation to disclosure on or before the date on which it is disclosed to or acquired by the Customer; or
- (c) has been independently developed by the Customer or acquired from a source which was not subject to a duty of confidentiality to the Coregas;

“**Consumer**” means:

- (a) a person acquiring Goods of a kind ordinarily acquired for personal, domestic or household use or consumption; or
- (b) a person acquiring Goods at a price not exceeding \$40,000; or
- (c) a person acquiring Goods of a kind ordinarily acquired for personal, domestic or household use or consumption; or
- (d) the Goods consisted of a vehicle or trailer acquired for use principally in the transport of goods on public roads, but excludes a person acquiring the Goods, or holding himself or herself out as acquiring the Goods for the purpose of:
 - (a) re-supply; or
 - (b) using them up or transforming them, in trade or commerce, in the course of a process of production or manufacture or in the course of repairing or treating other goods or fixtures on land.

“**Contract**” means a contract for the supply of Goods and/or Services entered into between Coregas and the Customer pursuant to these Standard Terms and Conditions;

“**Control**” has the meaning given in section 50AA of the *Corporations Act 2001* (Cth));

“**Coregas**” means Coregas Pty Ltd ABN 32 001 255 312;

“**Coregas List Prices**” means the standard prices for the Goods and/or Services levied by Coregas from time to time;

“**Customer**” is the person (including their successors and assigns) purchasing Goods and/or Services from Coregas;

“**date of delivery**” means:

- (a) in respect of Goods: the date upon which the Goods are supplied to the Customer; and
- (b) in respect of Services: the date the Services are rendered;

“**Equipment**” means:

- (a) any processing, dispensing, scanning or monitoring equipment and storage vessels, including manifolds, vapourisers, piping, cylinder scanners and other devices; or
- (b) gas cylinders or liquid vessels including any inherent valve/s, pressure gauges, regulators and gas controlling and conserving devices and includes but is not limited to cylinders, packs, pallets and vessels in which gas or gas cylinders may be stored or transported.

“**Force Majeure Event**” means any cause beyond the reasonable control of Coregas including an act of God, war, fires, explosions, breakdown of machinery, transport or equipment, non-delivery or shortage of supplies, strike, lockout or other industrial disturbance;

“**Goods**” refers to all goods or Equipment supplied by Coregas including all forms of gas, excluding Rental Equipment;

“**GST**” and “**Input Tax Credit**” have the same meanings as in the New Tax System (Goods and Services Tax) Act 1999 (Commonwealth).

A person is “**Insolvent**” if:

- (a) it is (or states that it is) unable to pay its debts when they fall due;

- (b) it is bankrupt; or
- (c) it takes any step to obtain protection or is granted protection from its creditors under any applicable legislation, or a liquidator, administrator, receiver, manager or receiver and manager is appointed to the person or any of its assets or undertakings, or anything analogous or having substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;

“Lost Cylinder Charges” means the current fee Coregas charges in respect of gas cylinders provided as Rental Equipment where such cylinders are lost or destroyed while in the Customer’s possession.

“Party” or “Parties” means one or both of Coregas or the Customer, as applicable;

“PPSA” means the *Personal Property Securities Act 2009* (Cth);

“Price” means the price for Goods, Rental Equipment and/or Services determined in accordance with clause 3;

“Related Body Corporate” has the meaning given to that term in section 50 of the *Corporations Act 2001* (Cth);

“Rental Equipment” means Equipment or any other goods that are made available by Coregas for use by the Customer and in respect of which the Customer may be charged on a rental basis;

“Rental Period” means either:

- (a) in the case of cash on delivery Customers, from the date of delivery for the period which corresponds to the date of the upfront payment made by the Customer in accordance with clause 3.6, being either 3 months, 6 months or 12 months; or
- (b) in all other cases, the period commencing from the date of delivery until the date on which the Rental Equipment is returned to Coregas.

“Services” refers to all services provided by Coregas to the Customer and includes the delivery, installation and maintenance of Goods or Rental Equipment;

“supply” includes:

- (a) in respect of the Goods: supply (inclusive of re-supply) by way of sale, loan or rent;
- (b) in respect of Rental Equipment: supply by way of loan or rental; and
- (c) in respect of the Services: rendered.

- 1.2 Person includes corporation, firm and unincorporated association, sole trader, registered business and partners.
- 1.3 Words importing the singular number included the plural number and vice versa. Words importing one gender include all other genders.
- 1.4 Headings, sub-headings and captions do not affect the construction or interpretation of the Contract.
- 1.5 The words “include”, “includes” and “including” are not to be construed as words of limitation.
- 1.6 A reference to any document, instrument or agreement, including this Agreement, includes a reference to it as amended, novated, supplemented, varied or replaced from time to time.
- 1.7 A reference to any act, statute, code, regulation, order, ordinance, by-law or other legislation or subordinated or delegated legislation or provision thereof includes any modification, substitution or re-enactment thereof.
- 1.8 An agreement, representation or warranty by or in favour of two or more persons bind or is for the benefit of (as the case may be) them jointly and severally.

2 OFFER AND ACCEPTANCE FOR THE SUPPLY OF GOODS AND/OR SERVICES

- 2.1 Where the Customer submits an order for Goods, Rental Equipment and/or Services and Coregas accepts such order, these Standard Terms and Conditions shall apply to the supply of Goods, Rental Equipment and/or Services by Coregas to the Customer to the exclusion of any inconsistent terms stated, or incorporated, in the Customer’s order.
- 2.2 By accepting the Goods, Rental Equipment and/or Services on delivery the Customer shall be deemed to have accepted these Standard Terms and Conditions, to the exclusion of any other terms and conditions (whether written or oral).
- 2.3 No additions or variations to these Standard Terms and Conditions will be of effect unless expressly agreed in writing to by Coregas.
- 2.4 Coregas reserves the right to accept in whole or in part, any order by the Customer or to decline any such order. Any order or part order not accepted by Coregas is deemed void.

- 2.5 Coregas may reject any order which is not in writing. Verbal orders must be confirmed in writing by the Customer within seven (7) days of the verbal order.
- 2.6 Subject to any non-excludable rights under applicable legislation, the Customer shall be deemed to have inspected and accepted the Goods, Rental Equipment and/or Services fourteen (14) days after the date of delivery if the Customer has not within that period notified Coregas in writing that the Goods, Rental Equipment and/or Services are defective or otherwise not in accordance with the Contract.
- 2.7 Where the Customer submits an order for Goods, Rental Equipment and/or Services and Coregas accepts such order, the Customer agrees to purchase from Coregas all associated gases and/or cryogenic liquids comprised in those Goods or Rental Equipment.
- 2.8 Other than where the Customer has a statutory right of rescission, orders accepted by Coregas shall not be cancelled either wholly or in part, nor may the Customer suspend deliveries thereunder without the consent in writing of Coregas.

3 PRICES FOR GOODS AND SERVICES

- 3.1 Coregas agrees to supply and the Customer agrees to pay the Price for the Goods and/or Services, which will be:
 - (a) if Prices are set out in the Contract, as specified in the Contract; or
 - (b) in all other cases, the Coregas List Prices for those Goods and/or Services current as at the date of the placement of order.
- 3.2 Except to the extent expressly noted in the Contract, Coregas reserves the right to vary the Prices for Goods, Rental Equipment and Services by written notice to the Customer. Such variation will:
 - (a) in respect of Goods, Rental Equipment or Services not yet ordered, apply with immediate effect to all subsequent orders;
 - (b) subject to clause 3.2A, in respect of Rental Equipment in the Customer's possession: apply with immediate effect to all Rental Equipment in the Customer's possession; and
 - (c) not apply to Goods or Services already provided but not yet invoiced.
- 3.2A In relation to clause 3.2(b), if the Customer does not object in writing to the Price variation within 14 days of the Price variation taking effect, the Customer will be taken to have consented to that variation. Where the Customer objects in writing to the variation within 14 days of receipt of written notice by Coregas, the Price for Rental Equipment will remain unchanged and Coregas may (but is not obliged to) terminate any rental arrangements with the Customer that are the subject of the proposed Price change on 60 days' written notice to the Buyer.
- 3.3 The Customer acknowledges that the Prices are determined by Coregas in its discretion, and may take into account production costs, purchase costs, importation costs, exchange rates, freight, storage, handling and tax and duty costs, market conditions, the Customer's estimated annual consumption of the relevant item, insurance and other costs incurred by Coregas in supplying the Customer with Goods and/or Services.
- 3.4 The Price is exclusive of GST and other taxes or levies, except as otherwise stated in writing by Coregas.
- 3.5 Where the Price is stated in writing by Coregas to be inclusive of statutory charges and tax, any variation in statutory charges or tax between the date the Price is quoted and the date of delivery of the Goods and/or Services, which alters Coregas' liability for such statutory charges or taxes, shall be to the Customer's account and the Price shall be deemed to be varied accordingly.
- 3.6 No variation to the Price as allowed for in this clause 3 will entitle the Customer to terminate the Contract.

4 TERMS AND CONDITIONS OF PAYMENT

- 4.1 Payment due under these Standard Terms and Conditions shall be made by the Customer within thirty (30) days of the date of Coregas' relevant invoice by way of electronic funds transfer, credit card, bank cheque or money order. Payment shall not be treated as having been made until monies have been cleared. If these methods are not used, or if any payment is dishonored or defaulted on, Coregas may charge reasonable administration fees for any extra processing or debt collection costs.
- 4.2 If the Customer fails to comply with Coregas terms of payment in clause 4.1, Coregas may, without prejudice to any other remedy:
 - (a) until payment is made:
 - (i) suspend supply of further Goods, Rental Equipment and/or Services to the Customer without notice to the Customer; and
 - (ii) charge interest on all monies owing to Coregas at a premium of three percent above the then current Bank Bill Swap Reference Rate as quoted in the Australian Financial Review at the date the amount is due and

payable or an equivalent rate determined by Coregas (acting reasonably) if this rate ceases to be published, is updated, suspended or discontinued; and

- (b) review the existing payment terms without notice to the Customer.
- 4.3 Coregas may request, and, if requested, the Customer must deliver to Coregas:
 - (a) an unconditional irrevocable undertaking by a bank carrying on business in Australia, on terms acceptable to Coregas acting reasonably, to pay to Coregas on demand Coregas' reasonable pre-estimate of the Price; or
 - (b) a guarantee by the directors and/or shareholders of the Customer; or
 - (c) any other appropriate security, to secure the payment of the Price.
- 4.4 A Customer may be required to supply additional information as required to allow a 30 day payment facility referred to in clause 4.1 to exist.
- 4.5 Coregas may have recourse to the security referred to in clause 4.3 where the Customer fails to comply in any respect with its obligations under the Contract and after Coregas has notified the Customer in writing of its intention to have recourse to the security and the Customer does not remedy its failure to comply with the Contract within 5 days from the date of that notice.

5 GST

- 5.1 If a supply of the Goods and/or Services under these Standard Terms and Conditions is subject to GST and the Price is not expressed to be GST inclusive, the Customer must pay to Coregas at the same time as the Price for the Goods and/or Services is payable an additional amount equal to the amount of the Price payable multiplied by the applicable GST rate.
- 5.2 Where an adjustment event occurs in relation to a supply made by Coregas under or in connection with the Contract, Coregas will issue an adjustment note to the Customer in respect of that supply within 14 days after becoming aware of the relevant adjustment. Where Coregas becomes entitled to receive the amount of a variation from the Customer, the amount must be paid by the Customer within 14 days of Coregas providing the Customer with a valid adjustment note.
- 5.3 If a Party is required under the Contract to reimburse or pay to another Party an amount calculated by reference to a cost, expense, or an amount paid or incurred by that Party, then for the purpose of calculating the amount of the reimbursement or payment, the cost, expense or other amount paid or incurred will be reduced by the amount of any input tax credits to which the recipient of the payment is entitled in respect of that cost, expense or other amount.
- 5.4 Unless clearly indicated to the contrary, terms in section 2(c) which are defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause 5.

6 CONDITIONS REGARDING DELIVERY OF GOODS AND RENDERING OF SERVICES

- 6.1 Coregas will, at the Customer's request, deliver or arrange delivery of all Goods and Rental Equipment to the Customer and the Customer shall be responsible for all delivery charges for Goods and Rental Equipment delivered to the Customer's premises or premises designated by the Customer.
- 6.2 Dates for delivery of Goods or Rental Equipment or for the rendering of Services are estimates only and Coregas shall not be liable to the Customer for any delays in delivery.
- 6.3 If the Customer (or its representative) is not present or not available at the Customer's premises during delivery, Coregas remains entitled to deliver the relevant Goods or Rental Equipment at the Customer's premises, and risk in such Goods or Rental Equipment will pass in accordance with clause 8.1. Where, in order to deliver or collect Goods or Rental Equipment or render the Services, Coregas or its carrier enters the Customer's premises, the Customer shall provide full and safe access to Coregas or its carrier and shall be liable for and indemnify Coregas against all losses, damage to property and injury to, or death of, persons, occurring directly or indirectly as a result of the failure by the Customer to provide full and safe access.
- 6.4 The Customer is responsible for providing adequate labour and/or materials and handling equipment for the loading and unloading of Goods or Rental Equipment at its premises.
- 6.5 If at the Customer's request or through the Customer's failure to give appropriate forwarding instructions, Goods are not dispatched from Coregas' premises within 14 days of Coregas' notification that the Goods are ready for dispatch, Coregas will be entitled to invoice and receive payment for the Goods as though the Customer had taken delivery of the Goods.
- 6.6 Where in the circumstances envisaged in clause 6.6 Coregas sees fit, or the Customer requests, that the Goods be stored, then all the charges for such storage shall be payable by the Customer.
- 6.7 Unless otherwise established by written evidence to the contrary, Coregas' records and documentation (including, but not limited to Coregas' delivery logs or dockets, and Coregas' electronic cylinder tracking database records) will be conclusive evidence of the:
 - (a) date of delivery of any Goods, Rental Equipment or Services; and

(b) quantity and description of any Goods, Rental Equipment or Services delivered, (together, Delivery Records), irrespective of whether any Delivery Record is provided to the Customer at the time of delivery.

7 CONDITIONS REGARDING RETURN OF GOODS

- 7.1 Return of Goods (other than in situations where the Seller is required to accept a return of goods under the Australian Consumer Law) must be approved by Coregas.
- 7.2 Subject to any non-excludable rights under applicable legislation, Goods will not be accepted by Coregas as suitable for credit unless the Customer:
- (a) supplies the invoice number and date;
 - (b) returns the Goods in their original unmarked and undamaged condition and with all the documentation such as instruction sheets; and
 - (c) pays all transportation costs, and any reasonable handling fee imposed by Coregas, applicable for the return of the Goods.
- 7.3 Should Coregas agree to collect the Goods from the Customer, it shall be the Customer's responsibility to make sure that the Goods are available for collection at an easily accessible and safe location and that they are ready for loading on arrival of Coregas to collect them.
- 7.4 In the case of Goods being returned by the Customer to Coregas, it shall be the Customer's responsibility to ensure that they are returned in a safe condition (complying with all relevant legislation) as regards the risk to persons handling them and to persons in the vicinity and as regards the risk of damage to the Goods themselves.
- 7.5 Coregas disclaims liability for any damage to or loss of Goods returned which occurs whilst in transit to or from Coregas other than where Coregas delivers the Goods or collects them for return. Goods not accepted as suitable for return may be returned to the Customer together with a charge for outward freight where applicable.
- 7.6 In the event of replacement of any Goods or part thereof without charge for replacement Goods, the Goods replaced or part thereof replaced become the property of Coregas.
- 7.7 The Customer warrants that it is not party to any binding exclusive supply arrangement with another supplier for the Goods or Services to be supplied to the Customer by Coregas pursuant to these Terms and Conditions or any Contract.

8 RISK, TITLE AND PPSA

- 8.1 Risk shall pass to the Customer on delivery or collection of the Goods or Rental Equipment.
- 8.2 Title to the Goods is only transferred to the Customer when the Customer has paid all sums owing to Coregas in respect of those Goods. Rental Equipment remains the property of Coregas at all times.
- 8.3 Until all payments for the Goods have been made the Customer holds the Goods as bailee for Coregas and shall safely and securely store the Goods separately from other Goods on the premises of the Customer or in some other way render them capable of separate identification.
- 8.4 Each Party consents to the other perfecting any security interest under these Terms and Conditions which arises by operation of the PPSA in any property by registration under the PPSA and agrees to do anything reasonably requested by the other Party to enable it to do so.
- 8.5 The Parties contract out of each provision of the PPSA which, under section 115(1) of that Act, they are permitted to contract out of, other than:
- (a) sections 117 and 118 (relationship with land laws); and
 - (b) sections 134(1) and 135 (retention of collateral).
- 8.6 Each Party waives its right to receive each notice which, under section 157(3) of the PPSA, it is permitted to waive.
- 8.7 Each Party waives its rights to receive anything from any other Party under section 275 of the PPSA and agrees not to make any request of any other Party under that section.

9 DETAILS ON DRAWINGS AND SPECIFICATIONS

- 9.1 The terms of the Contract and all technical information supplied by Coregas to the Customer must be treated by the Customer as confidential and the Customer must not divulge such information to third persons without Coregas' written consent. The Customer must not infringe any copyright in any technical information supplied by Coregas.
- 9.2 All technical information (including catalogues, illustrations, drawings, specifications, and the particulars of weight and dimensions) supplied by Coregas to the Customer is approximate only and, to the extent permitted by law, Coregas gives no warranty and makes no representation in respect to the correctness, compliance, adequacy or otherwise of that technical information. To the extent permitted by law, the Customer agrees that it uses that technical information at its own risk.

- 9.3 To the extent permitted by law, the Customer indemnifies Coregas against all proceedings, claims, actions, costs loss and damage whatsoever and howsoever caused arising directly or indirectly from any breach of clause 9.1 or from the Customer's use of technical information supplied by Coregas.
- 9.4 To the extent permitted by law, Coregas provides no warranty and makes no representation as to the correctness, compliance, adequacy or otherwise of any information in relation to the use, storage and handling of the Goods or Rental Equipment that is provided to the Customer by Coregas employees or agents. The Customer agrees that it is responsible for obtaining for its personnel all necessary training in the safe and lawful use, storage and handling of the Goods and Rental Equipment.

10 FORCE MAJEURE

- 10.1 Coregas shall be excused from its obligations under the Contract to the extent that its ability to perform is prevented, restricted or affected by a Force Majeure Event.
- 10.2 On the occurrence of a Force Majeure Event, Coregas may in its absolute discretion give prompt notice of the Force Majeure Event to the Customer. On delivery of that notice Coregas is excused from its obligation to the extent of the relevant prevention, restriction or effect.
- 10.3 Despite any obligation on Coregas either at law or under the Contract, the Customer agrees that Coregas will be deemed to be prevented from performing its obligations under the Contract where there is a Force Majeure Event if it is only able to perform by incurring increased or additional costs. Despite this, Coregas may agree to supply Goods and/or Services to the Customer from an alternative source subject to Coregas and the Customer agreeing the price payable for those Goods and/or Services.
- 10.4 If Coregas is granted relief under clause 10.2 by reason of a Force Majeure Event, the Customer may, after notifying Coregas in writing, acquire refills from an alternative source up to the time when Coregas is able to resume refilling of the Equipment.

11 LIABILITY

- 11.1 The Competition and Consumer Act 2010 (Cth) and the Australian Consumer Law guarantee certain conditions, warranties and undertakings, and give you other legal rights, in relation to the quality and fitness for purpose of consumer goods sold in Australia. These guarantees cannot be modified nor excluded by any contract. Nothing in these terms and conditions purports to modify or exclude the conditions, warranties, guarantees and undertakings, and other legal rights, under the Australian Consumer Law and other laws which cannot be modified or excluded. Except as expressly set out in these Standard Terms and Conditions and the Australian Consumer Law, Coregas makes no warranties or other representations under these Standard Terms and Conditions. Coregas' liability in respect of these warranties, representations, undertakings and guarantees is limited to the fullest extent permitted by law.
- 11.2 Without limiting clause 11.1, where Coregas sells Goods to the Customer, and the Customer purchases them as a Consumer, then the Australian Consumer Law provides certain guarantees in relation to the goods. The rights of the Customer buying goods as a Consumer include those set out in clause 11.3 below.
- 11.3 Coregas' goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. The Customer is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 11.4 To the extent permitted by statute, the liability, if any, of Coregas arising from the breach of any implied conditions or warranties, or failure to comply with a statutory guarantee under the Australian Consumer Law, in relation to the supply of goods other than goods of a kind ordinarily acquired for personal, domestic or household use or consumption, shall at Coregas' option be limited to:
- (a) in the case of Goods or Rental Equipment:
 - (i) the replacement of the faulty Goods or Rental Equipment or the supply of equivalent goods;
 - (ii) the repair of the Goods or Rental Equipment;
 - (iii) the reimbursement of the cost of the repair of the Goods or Rental Equipment; and
 - (iv) the payment of the cost for the repair of the Goods or Rental Equipment; and
 - (b) in the case of Services:
 - (i) the re-supply of the Services; or
 - (ii) the reimbursement of the cost of having the Services supplied again.
- 11.5 Notwithstanding any other provision of these terms and conditions or any Contract:
- (a) subject always to paragraph (b), Coregas' maximum aggregate liability in respect of Goods, Rental Equipment or Services supplied in a given calendar year in connection with (i) these Terms and Conditions; or (ii) any Contract, in each case whether in contract, in tort (including but not limited to negligence), in equity, under any warranties or

indemnities, by operation of statute or otherwise, will, to the extent permitted by law, be limited to the aggregate of all Prices paid by the Customer to Coregas in respect of the same calendar year; and

- (b) Coregas is not liable under or in connection with these terms and conditions or a Contract, whether such liability arises in contract, breach of warranty, indemnity, tort (including without limitation negligence), strict liability or otherwise, for any kind of loss of opportunity, loss of revenue, loss of production, loss of profit or anticipated profit, loss of contract, loss of goodwill or loss arising from business interruption, or indirect or consequential loss or damage incurred or suffered by a party, or any other person, even if those damages or losses may reasonably be supposed to have been in the contemplation of the parties at the time they entered into this Contract.

12 TERMINATION AND REMEDIES FOR BREACH

12.1 If:

- (a) any payment by the Customer is outstanding for more than seven (7) days after the due date;
- (b) the Customer breaches any of these Standard Terms and Conditions;
- (c) the Customer is or becomes Insolvent;
- (d) the Customer is subject to a Change of Control Event,

without prejudice to any other rights or remedies Coregas has under these terms and conditions, at law, in equity or by statute:

- (e) Coregas may immediately terminate the Contract by notice in writing to the Customer;
- (f) in respect of events in paragraphs (a) and (c), the Customer shall, should Coregas so require, deliver up the Goods to Coregas failing which Coregas is irrevocably authorised to lawfully enter at any time by its servants or agents the place where the Goods are situated and to repossess the Goods, and to remove the Goods from any vessel, vehicle or other place whether or not they have at any such time become fixed to any vessel, vehicle, thing or place and for this purpose Coregas is hereby appointed the Customer's agent. The Customer agrees to indemnify Coregas and keep Coregas indemnified against all costs reasonably incurred by Coregas in removing the Goods and against all claims against Coregas arising from such removal; and
- (g) in respect of Rental Equipment, Coregas may give notice to the Customer in writing that all Rental Equipment held by the Customer (if any) are required to be returned to Coregas or that the Customer pays to Coregas the value of the Rental Equipment not returned. If the Customer does not return the Rental Equipment or make the payment within seven (7) days of receipt of the notice, Coregas may:
 - (i) enter any premises where the Rental Equipment is expected to be and take possession and retain them (and in the case of Containers and Cylinders together with any gas remaining therein). In these circumstances Coregas shall not reimburse the Customer for any unused gas; and
 - (ii) invoice the Customer, by way of liquidated damages, for demurrage at the Coregas List Prices for those Rental Equipment of that type from the date of Coregas' notice under clause 12.1(f) to the date upon which Coregas receives full payment pursuant to notice under clause 12.1(f) or repossesses the Rental Equipment pursuant to clause 12.1(f)(i) as the case may be.

12.2 Coregas may terminate any Contract or outstanding hire of Rental Equipment on 90 days' written notice to the Customer. Where the Customer has pre-paid any portion of the Price for the hire of any Rental Equipment, Coregas will refund a portion of that payment on a pro-rata basis by reference to the unexpired portion of the pre-paid term of the rental period.

12.3 Following termination under clause 12.3, the Customer will be entitled to retain any Rental Equipment containing gas:

- (a) until all usable quantities of gas have been extracted from the Rental Equipment; or
- (b) for up to 6 months following termination becoming effective, whichever period is shorter. The Customer will be required to continue paying rental fees for such Rental Equipment during this period.

Upon the termination of the Contract for any reason, Coregas may remove any Coregas Equipment from the Customer premises and the Customer shall pay to Coregas a removal charge. This removal charge will be determined by Coregas by reference to its costs incurred in undertaking that removal, by reference to the current market costs at the time of termination of the Contract.

12.4 Clauses 5, 8, 9, 11, 12.1, 12.2, 13.10, 13.11, 17, 18, 20, 21.2, 23, and 24 will survive termination or expiration of any Contract under these Standard Terms and Conditions.

13 RENTAL EQUIPMENT

13.1 The Customer shall:

- (a) handle and use all Rental Equipment in a skillful, safe and proper manner and in accordance with the working instructions as provided from time to time by Coregas;
- (b) be solely responsible for the safe custody of the Rental Equipment;
- (c) not remove, deface or alter any Coregas identification mark, trade marks or signs fixed to, painted on or adjacent to the Rental Equipment;
- (d) not sell, lease, encumber or otherwise part with possession or control of the Rental Equipment;

- (e) not use or attempt to use the Rental Equipment for any purpose other than for which it was rented;
 - (f) not use the Rental Equipment to store or dispense gas or other product that is not supplied by or with the written permission of Coregas;
 - (g) not draw off gas from the Rental Equipment for the purposes of resupply;
 - (h) not without Coregas' written approval decant from the Rental Equipment to/or from any other vessel/container;
 - (i) notify Coregas immediately upon becoming aware of any fault in the Rental Equipment;
 - (j) not without prior written consent of Coregas repair, move, alter, tamper or interfere in any way with the Rental Equipment other than adjusting it in accordance with the instructions provided by Coregas;
 - (k) grant Coregas full and free access to the Rental Equipment and shall bear the responsibility for and indemnify Coregas against any loss, damage or injury occurring as a result of Coregas not having such access;
 - (l) pay all taxes, rents, charges and impositions at any time payable in relation to the premises where the Rental Equipment are installed;
 - (m) insure the Rental Equipment for its full replacement value with a reputable insurance company while it is in the Customer's possession;
 - (n) indemnify Coregas up to the current replacement value of the Rental Equipment for and against all loss or damage or cost of repairs to the Rental Equipment from any cause (other than fair wear and tear); and
 - (o) indemnify Coregas against all actions, proceedings, claims, damages, losses, expenses and costs arising from third parties directly or indirectly in relation to the Customer's use of the Rental Equipment (except to the extent caused by the negligence or unlawful act of Coregas).
- 13.2 The Customer shall be liable for and shall keep Coregas indemnified against all loss, damage or injury arising out of any act or default of the Customer in relation to the Rental Equipment supplied, however, this clause 13.3 shall not apply to loss, damage or injury caused directly through reasonable wear and tear to the Rental Equipment, or Coregas' negligence.
- 13.3 If for any reason the Rental Equipment need to be repaired, the Customer shall promptly return it to Coregas. If the need for repair is found by Coregas to arise through reasonable wear and tear to the Rental Equipment, Coregas may elect to either terminate the rental or continue the rental by repairing or replacing the Rental Equipment.
- 13.4 If Coregas elects to terminate the rental, the Customer will receive the balance, after deduction of any amounts owing by the Customer to Coregas on any account whatsoever, of pre-paid rent and the Customer's reasonable expense of returning the Rental Equipment to Coregas. If Coregas elects to repair or replace the Rental Equipment and continue the rental, Coregas shall credit the Customer's account in respect of any prepaid rent for the period during which the Rental Equipment was not able to be used by the Customer.
- 13.5 Coregas may require the Customer to provide a deposit prior to the rental of the Rental Equipment. Any such deposit shall be refunded to the Customer on return of the Rental Equipment in good order and condition (reasonable wear and tear excepted). However, Coregas reserves the right to deduct from such refund, prior to payment thereof, a sum to cover all amounts outstanding to Coregas by the Customer on any account whatsoever.
- 13.6 The Customer must pay all costs incurred by or on behalf of Coregas in connection with any request from the Customer for:
- (a) a change of location of the Rental Equipment; or
 - (b) the replacement of particular Rental Equipment for goods of a different size, type or capacity (except to the extent that Coregas has incorrectly provided Rental Equipment other than that requested by the Customer in the first instance).
- 13.7 Coregas is not liable to the Customer for any loss of any gas from the Rental Equipment unless the loss results directly from a defect in the Rental Equipment which has not been caused or contributed to by any act or default of the Customer, its officers, employees and agents. The liability of Coregas to the Customer for the loss of gas will not exceed the replacement value of gas that was lost.
- 13.8 Rental Equipment is not transferable and must not be sent for refilling to any place other than Coregas' premises or to depots, distributors or agents authorised by Coregas.
- 13.9 Coregas shall be entitled to immediately terminate the Contract and repossess any Rental Equipment if:
- (a) the Customer is in breach of any of these Standard Terms and Conditions;
 - (b) the Equipment is refilled by a source other than by Coregas (except as permitted pursuant to clause 13.8);
 - (c) the Customer becomes Insolvent; or
 - (d) the Customer ceases to order supplies from Coregas.
- 13.10 In order to enable Coregas to repossess the Rental Equipment pursuant to clause 13.9 the Customer shall allow Coregas full and free access to the Rental Equipment. Where the Rental Equipment is connected to any other property, Coregas shall be entitled to sever any connection to enable the Rental Equipment to be removed. Coregas shall be entitled to charge the Customer for Coregas' directly incurred costs of removing the Equipment.
- 13.11 To the extent permitted by statute, to Coregas reserves the right to refuse a refund or credit on any/all Containers and Cylinders returned once the "gas seal" is broken.

14 INSTALLATION AND MAINTENANCE OF RENTAL EQUIPMENT

14.1 Where the Customer requires Coregas to install Rental Equipment:

- (a) it shall be the Customer's responsibility to provide Coregas with adequate information to enable it to proceed with the installation; and
- (b) Coregas will provide a quotation to the Customer in respect of delivery and installation costs. Any instruction from the Customer to proceed shall be regarded as acceptance of this quotation. If, through the delay, fault, negligence or action of the Customer, Coregas incurs installation expenses exceeding those provided for in the relevant quotation, the Customer shall immediately pay Coregas an amount covering such additional costs and expenses

14.2 The Customer shall provide at its cost:

- (a) a concrete apron, as requested by Coregas, in front of the storage tank (liquid Oxygen only);
- (b) a suitable concrete slab on which the provided Equipment may be placed;
- (c) convenient access to the Rental Equipment for all Coregas' delivery vehicles;
- (d) a wire safety fence and/or barrier wall, as per requirements of any statute or any relevant standard of the Standard Associations of Australia;
- (e) reticulation pipeline, standby manifold and alarm system, and
- (f) electrical power and water supply as requested.

14.3 Coregas will maintain the Rental Equipment in good order and repair (other than where repairs are required due to the fault, negligence or misconduct of the Customer) and ensure that it is suitable for supply of the relevant gas to the Customer. The Customer shall provide Coregas (or its nominated contractor) with appropriate access to the Rental Equipment for this purpose. Where Coregas (or its nominated contractor) is required to conduct any repairs, tests, or maintenance on the Rental Equipment, Coregas may temporarily remove the whole or part of the Rental Equipment for such purpose. Coregas shall endeavor to provide the Customer with equivalent Rental Equipment in such circumstances.

14.4 If Rental Equipment is lost or damaged whilst in the possession of the Customer, the Customer shall pay a replacement fee to Coregas as invoiced by Coregas. Where the Rental Equipment is a gas cylinder, such replacement fee will be the current Lost Cylinder Charge maintained by Coregas.

15 INVOICING AND PAYMENT FOR RENTAL EQUIPMENT

15.1 Rental Equipment is not regarded as returned until received by Coregas or its authorised depots, distributors or agents at their premises or upon a vehicle of Coregas or its agents and a receipt of Coregas is given for the same. No document purporting to be a receipt for any Rental Equipment shall be valid unless it is on Coregas' printed form of receipt.

15.2 The Customer is required to verify the total quantity of Rental Equipment specified in each Coregas invoice. Where the Customer disagrees with the quantity stated on the invoice, it must provide written notification plus documentation in support of the Customer's disputed claim to Coregas within fourteen (14) days of receipt of the rental invoice. Failing such written notification, Coregas' rental invoice shall be conclusive and the Customer will be liable to Coregas in respect thereof.

15.3 If written notification is received by Coregas from the Customer in accordance with clause 15.2, Coregas will conduct a review of all transactions for the previous six months to identify any discrepancies. Where the review is concluded in favour of the Customer's claim (either in whole or part), Coregas will reduce the amount of the disputed current invoice by reference to the outcome of that review.

15.3 If any transaction or notification by the Customer, or any reconciliation undertaken or other internal record keeping used by Coregas, indicates that the quantities of Rental Equipment held by the Customer exceed the quantities that Coregas' records previously indicated, Coregas may amend its records by written notice to the Customer and charge the Customer in its next invoice and then on an ongoing basis increased rental charges in accordance with Coregas' revised records. The dispute process in clause 15.3 will apply to each invoice that is amended in this manner.

15.4 For the purposes of determining the Customer's holdings of Rental Equipment at any given time, Coregas may, in its absolute discretion, have reference to:

- a) Coregas' records of the Customer's scanned cylinder holdings;
- b) Coregas' records of the Customer's invoiced cylinder holdings; or
- c) such other records as Coregas reasonably determines from time to time are appropriate for recording Customer's cylinder holdings (including any physical audit undertaken by Coregas at the Customer's premises).

Coregas reserves the right to reconcile the Customer's invoiced cylinder holdings to the Customer's scanned Cylinder holdings at any time.

15.5 No allowance will be made for any residual gas which is returned in any Rental Equipment.

16 TESTING OF NON-COREGAS CYLINDERS

Where the Customer requests Coregas to refill cylinders not owned by Coregas, Coregas may at the Customer's expense inspect and test such cylinders prior to each refill in order to determine compliance of the cylinders with all relevant standards of the Standards Association of Australia and statutes, regulations or orders. Coregas may refuse to refill a cylinder if in Coregas opinion it does not comply with any such standards, statutes, regulations or orders.

17 GOVERNING LAW AND JURISDICTION

These Standard Terms and Conditions and any Contract shall be governed by and construed in accordance with the laws of the State of New South Wales.

18 LIENS

Additional to any lien to which Coregas may be entitled, Coregas shall, in the event of Insolvency of the Customer, be thereupon entitled to a general lien on all property whatsoever owned by the Customer and in Coregas' possession at the time, such lien to cover the unpaid Price of any Goods, Rental Equipment and/or Services supplied by Coregas to the Customer.

19 LICENCES AND PERMITS

The Customer must ensure that, in respect of all Goods and/or Services supplied by Coregas to the Customer, all licenses and permits needed by the Customer under relevant statute, ordinance or related rule or regulations are obtained.

20 NOTICES

20.1 Notices under these Standard Terms and Conditions may be given via (i) email to an authorized representative of the other Party; (ii) prepaid post; or (iii) hand delivery.

20.2 Notices take effect when taken to be received, being:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, seven calendar days after the date of posting (or 14 calendar days after the date of posting if posted to or from a place outside Australia);
- (c) if sent by email, when the email (including any attachment) comes to the attention of the recipient party or a person acting on its behalf, but in any event no later than 4 calendar days after the delivery, receipt or transmission of that email.

21 GENERAL

21.1 The Customer shall not assign any of the rights or obligations under the Contract without the prior written consent of Coregas (not to be unreasonably withheld).

21.3 Failure by a Party to insist upon strict performance by the other Party of any Standard Terms and Conditions contained herein shall not be taken to be a waiver thereof or of any rights of such Party in relation thereto and in any event shall not be taken to be a waiver of the same terms and conditions on any subsequent occasion.

21.4 These Standard Terms and Conditions and any documents attached or expressly incorporated into these Standard Terms and Conditions constitute the entire agreement between the Parties and all other matters (including any terms included with the Customer's Purchase Order) are expressly excluded.

21.5 The Customer acknowledges that it has not been induced to accept these Standard Terms and Conditions and enter into the Contract by any representation made by or on behalf of Coregas. The Customer has not relied on Coregas' skill and judgement and the Customer has satisfied itself that the Goods are suitable for the Customer's purposes.

21.6 Coregas may from time to time vary these Standard Terms and Conditions at its sole discretion without notification, provided that any variation to these Standard Terms and Conditions will not apply to:

- (a) orders, rental or transactions that remain outstanding prior to the date of such variation; or
- (b) any contract for a specified term that incorporates a version of these Standard Terms and Conditions released prior to the variation.

22 SEVERABILITY

Coregas and the Customer acknowledge and agree that:

- (a) all the provisions of these Standard Terms and Conditions and the Contract are reasonable in all the circumstances and that each provision is and will be deemed to be severable and independent; and
- (b) If all or any part of any provision is judged invalid or unenforceable in all the circumstances, it will be deemed to be deleted and will not affect the validity or enforceability of the remaining provisions.

23 INDEMNITIES

The indemnities in these Standard Terms and Conditions are continuing obligations, independent from the other obligations of the Parties and continue after the Contract ends. It is not necessary for a Party to incur expense or make payment before enforcing a right of indemnity under these Standard Terms and Conditions.

24 CONFIDENTIALITY

24.1 The Customer must not advertise or issue any information, publication, document or article (including photographs or film) for publication or media releases or other publicity relating to the Services, this Contract or Coregas' Confidential Information without the prior written approval of Coregas.

- 24.2 The Customer must not, and must ensure that its personnel do not, without the prior written approval of Coregas:
- (a) use Confidential Information other than as necessary for the purposes of fulfilling its obligations under this Contract; or
 - (b) disclose the Confidential Information, other than to its personnel who need the information to enable the Customer to perform this Contract, to the Customer's legal advisors, accountants or auditors.

25 PRICE ADJUSTMENT FOR CHANGE OF LAW

- 25.1 If at any time during the Supply a Change of Law occurs which results in an increase or decrease in the costs incurred by Coregas in supplying the Goods under the Contract, Coregas may, by notice in writing to the Customer, increase or decrease the applicable Price by an amount necessary to offset the increase or decrease in the costs incurred by the Coregas in supplying the Goods as a results of the Change of Law. Any notice issued by the Coregas under this clause 25.1 will reasonably contain such information as is necessary to demonstrate:
- (a) The casual relationship between the Change of Law and the increase or decrease in the costs referred to; and
 - (b) The nature and extent of any increases or decreases in the relevant Price necessary to offset the increased or decreased costs referred to and details of all calculations and all other information and documents in support of the increase and decreased, and will be accompanied by copies of those documents.
- 25.2 Any increase or decrease to the Price under clause 25.1 will take effect from the date on which Change of Law takes effect.

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