



Air Liquide Healthcare Limited

TERMS AND CONDITIONS OF PURCHASE

DEFINITIONS

In these Conditions, the following definitions apply:

"Buyer" shall mean Air Liquide Healthcare Limited;

"Contract" shall mean the contract between the Buyer and the Seller for the supply of goods and/or services in accordance with these Conditions and the Order.

"Deliverables" shall mean all documents, products and materials developed by the Seller or its agents, contractors and employers as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programmes, data, specifications and reports.

"Goods" will be the goods (or any part of them) set out in the Order.

"Intellectual Property Rights" shall mean all patents, rights to inventions, utility models, copyright and related rights, trade mark, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Order" shall mean the Buyer's order for the supply of Goods and/or Services as set out in the Buyer's Purchase Order;

"Seller" shall be the person or company to whom the Order is addressed;

"Service Specification" shall mean the description or specification for services agreed in writing by the Buyer and the Seller.

"Services" shall mean the services including without limitation any Deliverables to be provided by the Seller to the Buyer as set out in the Order.

1 TERMS AND VARIATIONS

a) The Buyer will be responsible for the payment of Goods and/or Services only if ordered on the Buyer's official Purchase Order Form.

b) Any waiver or substitution or exception or modification or addition to the terms contained in the Order or these Conditions must, to be valid, be agreed in writing between the Buyer and the Seller.

2 DOCUMENTS

The Seller shall:

a) clearly mark the outside of each consignment or package with the Seller's name and full details of the destination in accordance with the Order and include a Packing Note stating the contents thereof;

b) on despatch of each consignment, send to the Buyer at the delivery address, an Advice Note specifying the means of transport, the weight, number, volume and the point and date of despatch.

c) send to the Buyer a detailed priced invoice as soon as is reasonably practicable after the despatch of each consignment.

d) state on every packing note, advice note, invoice or other document relating to the Order, the Order number and code number (if any)

3 ACCEPTANCE

Delivery of any part of the Goods or the commencement of the Services ordered hereunder constitutes acceptance by the Seller of all the terms of the Order (including these Conditions) without reservation.

4 QUALITY AND DESCRIPTION

The Seller shall ensure that the Goods shall:

a) conform with the general description stated in the Order

b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Seller or made known to the Seller by the Buyer, expressly or by implication, and in this respect the Buyer relies on the Seller's skill and judgment

c) be free from defects in design, materials and workmanship

d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods

e) be of sound materials and workmanship

f) correspond in all respects to the samples, patterns or any technical description of the Goods contained or referred to in the Order

g) perform all functions and meet all standards specified in the Order.

5 INSPECTION AND TESTING

a) Before dispatching the Goods the Seller shall carefully inspect and test them for compliance with the Conditions. The Seller shall, if requested by the Buyer, give the Buyer reasonable notice of such tests and the Buyer shall be entitled to be represented thereat. The Seller shall also, at the request of the Buyer, supply to the Buyer with a copy of the Seller's test sheets, certified by the Seller to be a true copy.

b) The Buyer will be entitled to inspect and test the Goods during manufacture, processing or storage. If the Buyer exercises this right, the Seller shall provide or shall procure the provision of all such facilities as may reasonably be required by the Buyer thereof.

c) If as a result of any inspection or test under paragraph (a) or (b) of this clause the Buyer's representative is of the reasonable opinion that the Goods do not comply with these Conditions or are unlikely on completion of manufacture or processing so to comply, the Buyer shall inform the Seller accordingly and the Seller shall immediately take such steps as are necessary to ensure such compliance.

d) Notwithstanding any such inspection or testing, the Seller shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Seller's obligations under these Conditions, and the Buyer shall have right to conduct further inspections and tests after the Seller has carried out its remedial actions.

6 DELIVERY

- a) The Goods shall be properly packed and secured in such a manner as to reach their destination in good condition and shall be delivered carriage paid by the Seller at, the place or places and in the manner specified in the Order, or as otherwise agreed in writing by the Buyer.
- b) Arrangements for payment and return of returnable wooden packing cases, skids, drums and other re-usable articles used for packing the Goods will be as specified in the Order or, if not set out in the Order, all such returns shall be at the Seller's cost.
- c) Delivery of the Goods shall be completed on the completion of unloading of the Goods at the place specified for delivery in the Order.

7 PASSING OF PROPERTY AND RISK TO BUYER

Title and risk in the Goods shall pass to the Buyer on completion of delivery without prejudice to any right of rejection which may accrue to the Buyer under these terms.

8 TIME FOR DELIVERY

- a) The Seller shall deliver the Goods on the delivery date specified in the Order or if no such date is specified, then within 5 days of the date of the Order. Except with the written consent of the Buyer, the Seller shall not deliver the Goods in advance of the delivery date specified in the Order.
- b) If any delivery is made which is not in all respects in accordance with the terms of sub-clause (a) above then, without prejudice to any other rights or remedies that it may have, the Buyer may, at its sole discretion, claim or deduct 5% of the price of the Goods for each week's delay in delivery by way of liquidated damages, up to a maximum of 50% of the total price of the Goods.

9 SUPPLY OF SERVICES

- a) The Seller shall from the date set out in the Order and for the duration of the Contract provide the Services to the Buyer in accordance with these Conditions and the Order.
- b) The Seller shall meet all performance dates for the Services specified in the Order or notified to the Seller by the Buyer.
- c) In providing the Services, the Seller shall:
 - (i) co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;
 - (ii) perform the Services with the best care, skill and diligence in accordance with best practice in the Seller's industry, profession or trade;
 - (iii) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Seller's obligations are fulfilled in accordance with these Conditions and the Order;
 - (iv) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in any Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Seller by the Buyer;
 - (v) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - (vi) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Buyer, will be free from defects in workmanship, installation and design;
 - (vii) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations; and
 - (viii) observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises.

10 TERMINATION

- a) If the Seller commits a material breach of the Contract and fails, within ten days of the date of a notice sent by the Buyer to the Seller, to remedy such breach, the Buyer may, without prejudice to any other right or remedy, terminate the Contract forthwith by notice in writing to the Seller.
- b) If the Seller becomes bankrupt or has a receiving order or administration order made against it or makes an arrangement with or for the benefit of its creditors, or if the Seller has a receiver appointed over it or if an order is made or resolution passed for winding up the Seller's business (other than for the purpose of amalgamation or reconstruction) or if the Seller cannot otherwise pay its debts when they fall due then the Buyer shall have the right to cancel all the Order and terminate the Contract immediately by notice in writing without liability to the Seller and any goods, tooling, and materials loaned or supplied to the Seller in connection with any Order or the Seller's business in general, shall be returned to the Buyer immediately.
- c) The Company shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Seller written notice whereupon all Services shall be discontinued and unless there has been a breach by the Seller of the Contract, the Buyer shall pay to the Seller a fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- d) Termination of the Contract shall be without prejudice to the rights and duties of the Buyer accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

11 REMEDIES

- a) Without prejudice to any other right or remedy that the Buyer may have, if any Goods are not supplied in accordance with any of the terms of the Contract, whether or not they have been accepted by the Buyer, the Buyer shall be entitled, at its sole choice, to:
 - i) terminate the Contract with immediate effect by giving written notice to the Seller;
 - ii) reject the Goods (in whole or in part) whether or not title has passed and return them to the Seller at the Seller's risk and expense, on the basis that a full refund for the relevant Goods shall be paid forthwith by the Seller;
 - iii) refuse to accept any subsequent delivery of Goods which the Seller attempts to make without further liability to the Seller;
 - iv) require the Seller to repair the Goods or to supply replacement Goods in accordance with the Contract within 7 days;
 - v) recover from the Seller expenditure incurred by the Buyer in obtaining replacement goods.
 - vi) require the Seller to indemnify the Buyer for any additional costs, losses and/or expenses incurred by the Buyer arising from the Seller's failure to supply Goods in accordance with the Contract.
- b) if the Seller fails to perform the Services in accordance with the Contract the Buyer shall, without limiting its other rights or remedies, have one or more of the following rights:
 - (i) to terminate the Contract with immediate effect by giving written notice to the Seller;
 - (ii) to refuse to accept any subsequent performance of the Services which the Seller attempts to make;
 - (iii) to recover from the Seller any costs incurred by the Buyer in obtaining substitute services from a third party;
 - (iv) where the Buyer has paid in advance for Services that have not been provided by the Seller to have such sums refunded by the Seller; and
 - (v) require the Seller to indemnify the Buyer for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Seller's failure to perform the Services in accordance with the Contract.
- c) These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Seller.

12 INDEMNITY

- a) The Seller shall keep the Buyer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Buyer as a result of or in connection with:
 - (i) any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, ~~defects in Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Seller, its employees, agents or subcontractors;~~
 - (ii) any claim made against the Buyer by a third party arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Seller, its employees, agents or subcontractors; and
 - (iii) any claim made against the Buyer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services.

- b) For the duration of the Contract and for a period of 12 months thereafter, the Seller shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- c) This clause 12 shall survive termination of the Contract.

13 PRICE AND PAYMENT

- a) The price for the Goods shall be as shown on the Order and shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Buyer. No extra charges shall be effective without the Buyer's written acceptance.
- b) The price for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Seller in respect of the performance of the Services unless otherwise agreed in writing by the Buyer, the prices for the Services shall include every cost and expense of the Seller directly or indirectly incurred in connection with the performance of the Services.
- c) Unless otherwise agreed by the Buyer in writing or unless otherwise stated in the Order, payment of the price for the Goods shall be made by electronic transfer within 60 days of completion of delivery of the Goods, providing that the purchase order number is clearly stated on the invoice. Payment of the price for the Goods is subject to acceptance of the Goods at the delivery location stated in the Order and receipt by the Buyer of all documents, drawings and certification as set out in the Order.
- d) Unless otherwise agreed by the Buyer in writing or unless otherwise stated in the Order, in respect of the Services, the Seller shall invoice the Buyer on completion of the Services. Each invoice shall include the relevant purchase order number.
- e) Payment of the price for the Services shall be made by electronic transfer within 60 days of receipt by the Buyer of a correctly rendered invoice in accordance with clause 13(d).
- f) If the Buyer fails to pay any amount properly due and payable by it under the Contract, the Seller shall have the right to charge interest on the overdue amount at the rate of 4% per annum above the base rate for the time being of Barclays' Bank plc accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- g) The Buyer may, without limiting its other rights or remedies, set off any amount owing to it by the Seller against any amount payable by the Buyer to the Seller under the Contract.

14 CONFIDENTIALITY AND BUYER'S PROPERTY PROTECTION

- a) All patterns, dies, drawings, specifications, technical information, artwork, moulds or other tooling supplied by the Buyer and all consigned materials provided by the Buyer without change to the Seller for the purpose of ("Buyer Materials") shall be and remain the property of the Buyer.
- b) The Seller shall maintain all Buyer Materials in good order and condition and insure them against all risks whilst in its custody and on termination of the Contract or as otherwise direct by the Buyer shall return them to the Buyer in good order and condition. Should the Seller fail to return Buyer Materials when requested to do so by the Buyer or return Buyer Materials in good order and condition the Buyer may, without prejudice to any other rights or remedies that it may have, either withhold payment of the Goods and/or Services until the Buyer Materials are so returned or withhold such part of the payment due as may be required to replace such Buyer Materials or to restore them to good order and condition.
- c) The Seller shall not use Buyer Materials, nor shall it authorise or knowingly permit them to be used by anyone else for, or in connection with, any purpose other than the supply of the Goods to the Buyer unless such use is expressly authorised by the Buyer, previously, and in writing.

15 STATUTORY REQUIREMENTS

The Seller undertakes that the design, construction and quality of the Goods to be supplied under the Contract comply in all respects with all relevant requirements of any statute, statutory rule or order, or other instrument having the force of law which may be in force at the time when the same are supplied.

16 INTELLECTUAL PROPERTY RIGHTS

- a) In respect of the Goods and any goods that are transferred to the Buyer as part of the Services under the Contract, including without limitation the Deliverables or any part of them, the Seller warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Buyer, it will have full and unrestricted rights to sell and transfer all such items to the Buyer.
- b) The Seller assigns to the Buyer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.
- c) The Seller shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- d) The Seller shall, promptly at the Buyer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Buyer may from time to time require for the purpose of securing for the Buyer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Buyer in accordance with clause 16 (b).

17 ASSIGNMENT AND SUB-CONTRACTING

- a) The Seller shall not without the consent in writing of the Buyer assign or transfer the contract or any part of it to any other person.
- b) The Seller shall not without the consent in writing of the Buyer sub-let the contract or any part thereof other than for materials, minor details or for any part of the Goods of which the makers are named in the Order or the Specification, but this shall not prevent the Seller sub-letting part of the contract to any company which is a member of the group to which the Seller belongs (or a company with which the Seller is associated). Any such consent shall not relieve the Seller of any of his obligations under the contract.

18 GENERAL

- a) The provisions of these Conditions shall apply to the Contract to the exclusion of all other written terms and conditions of the Seller, save for those set out in the Order which take precedence in the event of conflict with these Conditions, and nothing said or written in the course of negotiations or otherwise shall have contractual or other legal effect unless it is expressly incorporated in the Order or the documents which are annexed or referred to in the Order.
- b) All provisions of the Order and these Conditions are without prejudice to the Buyer's rights and remedies at law or otherwise.

19 GOVERNING LAW

The provisions of the Order and the rights of the parties hereto shall be governed and construed in all respects according to the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales in respect of any dispute or claim arising out of or in connection with the Contract, its subject matter or formation.

20 CORPORATE SOCIAL RESPONSIBILITY (CSR)

Air Liquide is committed to respecting human and labor rights and legislation towards protecting the environment and is giving more and more importance to the ability of its suppliers to accompany Air Liquide with its Sustainability policy.

a) Supplier Code of Conduct

Supplier guarantees that the supply of this purchase order is done in full compliance with the Air Liquide Supplier Code of Conduct attached in this link

<https://www.airliquide.com/file/9571/download?token=QSZqJ7uv>

Air Liquide "Supplier Code of Conduct" is attached as Exhibit [*] and/or is available on the Air Liquide Website at the following URL

<https://www.airliquide.com/file/9571/download?token=QSZqJ7uv>

Air Liquide expects the Supplier to conduct business responsibility, with integrity and transparency, and requests the Supplier to comply with the rules of such "Supplier Code of Conduct". The Supplier undertakes to comply with and will ensure compliance with the "Supplier Code of Conduct" by all of the Supplier's employees and subcontractors.

b) CORPORATE SOCIAL RESPONSIBILITY (CSR)

- (i) The Supplier undertakes to put in place, during the duration of this Agreement an action plan in order to:
- o register the number of their employees and the number of those entering and leaving, in each facility;
 - o register the number of lost-time accidents and the number of non-lost time accidents and the accident frequency rate of employees, subcontractors and temporary workers;
 - o measure and optimize water and energy consumption;
 - o measure and optimize greenhouse gas (GHG) emissions;
 - o measure and reduce the atmospheric discharge of nitrogen oxide (NOx), sulfur oxide (SOx), and Volatile Organic Compounds (VOC);
 - o measure and reduce the discharge into water of oxidizable matter and suspended solids;
- (ii) The Supplier agrees to be evaluated at its own costs on its CSR performances by Air Liquide or by a third party appointed by Air Liquide.

If the global score obtained is below or equal to 24/100:

- The supplier undertakes to put in place within 1 month a Corrective Action Plan. After a period of 12 months, the Supplier undertakes to be reevaluated by Air Liquide or by a third party appointed by Air Liquide, at its own costs
- If the global score obtained is between 25/100 and 44/100:
- The supplier undertakes to put in place a Corrective Action Plan. After a period of 3 years, the Supplier undertakes to be reevaluated by Air Liquide or by a third party appointed by Air Liquide, at its own costs

c) For the sake of clarity, a violation of one of the commitments contained in this article by the Supplier or any of its subcontractors, shall be considered as a material breach to this Agreement, which may give rise to termination at Air Liquide's sole discretion.

21 DATA CONFIDENTIALITY

Any data we collect will be stored securely and will only be used for lawful business purposes. Any personal data we hold may only be shared with third parties where the third party has been engaged to process data on our behalf for lawful business transactions under this contract. Personal data will not be shared with any third party marketing companies. For your full data subject access rights (if applicable) please refer to the Air Liquide Healthcare Limited Statement and ICO website.