

## Air Liquide B.V. General Terms and Conditions of Delivery, Lease, Supply and Payment (hereinafter: "General Terms and Conditions" or "GT&Cs")

### Article 1: Definitions

The following definitions shall apply:

**AL:** The company Air Liquide, forming part of the Air Liquide group of companies, the registered office of which is located in the Netherlands, which signed the contract.

**Equipment:** Equipment leased or loaned to the Customer by AL for the storage, evaporation, use and/or consumption of Gas.

**Special Conditions:** the specific agreements agreed in writing between AL and the Customer relating to the Products.

**Cylinders:** All Gas cylinders approved and authorized by the competent authorities.

**Products:** Gas, Packaging and Equipment supplied and Services provided to the Customer by AL.

**Gas:** All types of gas to be supplied by AL in gaseous, liquid or dissolved form.

**Customer:** The contractual counterpart to AL.

**Contract:** Any contract concluded between AL and the Customer and including, on the one hand, specific terms and conditions (in particular prices, volumes and terms) and, on the other hand, these GT&Cs.

**Packaging :** containers for the storage and transportation of Gas, such as frames, cylinders, packaging, baskets, portable cryogenic containers (LGC) and their fixed accessories.

**Quantity:** The quantity of Gas is determined in the Netherlands at a temperature of 15 °C and a pressure of 0,981 mbar.

### Article 2: Applicability

2.1 These GT&Cs shall apply to all offers, agreements and deliveries relating to the Products between AL and the Customer.

2.2 These GT&Cs shall take precedence over the Customer's or third parties' general terms and conditions, as well as other possible terms and conditions applicable, for example, due to commercial customs or any other commercial practice.

2.3 Any deviation from these conditions, including the application of any other condition, must be explicitly confirmed in writing by both parties.

2.4 To the extent that any provision of these terms and conditions is invalid or void, this shall not affect the validity of the remaining provisions.

2.5 To the extent that any provision of the general terms and conditions is incompatible or appears to be contrary to any provision of the special terms and conditions agreed between AL and the Customer, the provision of the special terms and conditions shall always prevail.

### Article 3: Offers

3.1 All AL offers shall be non-binding.

3.2 Should the Customer provide AL with data, drawings, etc., AL may assume that they are correct and shall base its offer on this information.

3.3 offers must be accepted in writing.

3.4 Unless agreed otherwise, all AL offers shall be valid for a period of two (2) calendar months.

### Article 4: Prices

4.1 AL may adapt its prices to a potential increase in its operating costs.

4.2 Should the Customer's average monthly consumption, measured over six (6) consecutive calendar months, deviate from the volumes indicated in the contract for which the price was determined, AL may adjust the price.

4.3 Should during the term of a Contract between AL and the Customer, cost increases occur that result from governmental measures or other causes beyond AL's control and which were not foreseeable at the time of concluding this contract, AL shall be entitled to adjust the price and fees to take account of these increases.

4.4 All prices stated by AL are exclusive of taxes from any authority or government.

### Article 5: Deliveries

5.1 The delivery times appearing in the quotes, the order confirmation or in other documents are only indicative. AL shall make every reasonable effort to comply with delivery times. The specified delivery period being exceeded shall not entitle the Customer to cancel or terminate the Contract, or demand compensation of any kind from AL.

5.2 When determining the delivery time and/or the performance period, AL assumes that it is possible to perform the assignment originating from the Contract based on circumstances of which AL is aware at the time. In the event of additional work, a suspension of obligations by AL, weather conditions rendering the assignment impossible or circumstances other than those known to AL at the time the delivery period was set, the delivery period and/or the performance period shall be extended by the time necessary to perform the assignment.

5.3 The delivery time and/or the performance period shall only begin when an agreement has been reached on all commercial and technical details, all the necessary and definitive information is in possession of AL, the agreed payment has been received and the conditions necessary for implementation of the assignment have been met.

5.4 Ownership of the Gas shall be transferred to the Customer at the time of delivery. The risk of the Products or service is the Customer's from that moment. Notwithstanding the above, AL and the Customer may agree that AL shall provide transport on behalf of the Customer.

5.5 The Customer shall check the number of Packaging units delivered and taken back on the delivery receipt and ensure it is accurate. If there are inaccuracies, the Customer shall indicate this on the delivery note.

5.6 No claim, of any kind whatsoever, regarding the condition of the parcels or the Quantity of Gas contained therein shall be accepted if it is not justified by an issue being raised on arrival and acknowledged as accurate in writing by the carrier. AL shall only accept claims relating to the pressure or weight of Gas on condition that the discrepancy is noted on arrival at the destination and the claim is filed in writing within eight days of receipt of the goods.

The pressure shall always be determined at the reference temperature. For Gas sold by weight, the tare shall always be marked on the containers.

The Quantity of Gas invoiced shall appear on the delivery note and can be checked by the difference in weight.

5.7 The Customer shall be responsible for the place of delivery, and more particularly for its condition, secure access and maintaining its control under all circumstances. The Customer shall accept full responsibility for the Equipment on and around the place of delivery, including all necessary services and work that

AL may reasonably expect from the Customer..

**5.8** Should the Customer wish to switch from one Gas product to another replacement Gas or liquid product, AL may decide to deliver these products at the prices applicable at that time.

**5.9** As long as the Products are not taken back by AL, they shall remain at the Customer's disposal. Products not taken back are registered on behalf of and at the risk of the Customer.

#### **Article 6: Packaging**

**6.1** Packaging is the property of AL and shall be made available to the Customer by means of an indemnification mechanism. The Customer has no right to mortgage, pledge, sell, loan, encumber or otherwise transfer the assets belonging to AL.

**6.2** The Customer may not use the Packaging for any purpose other than the storage of Gas and is obliged to take care of the Packaging in a responsible manner.

**6.3** Should one or more Packaging units in the Customer's possession be lost, damaged or destroyed, not as the result of AL's negligence, the Customer shall be invoiced an amount equal to the replacement value.

**6.4** The Customer shall not be authorized to fill the Packaging made available by AL, nor to have it filled by third parties. Filling of Packaging belonging to the Customer in one of AL's plants or warehouses shall be undertaken at the Customer's risk and expense and shall involve a tacit request for AL to conduct any inspection and/or repair of the Packaging at the Customer's expense.

**6.5** Should the Packaging comprise an inspection/retest date, the Customer must comply with the applicable legislation regarding the return of Packaging to AL. All costs and/or liabilities arising as the result of a late return of Packaging in relation to the inspection/retest date and AL's legal obligations shall be borne by the Customer.

**6.6** AL shall be entitled to conduct an investigation at any time, should it deem this appropriate, into the quantity and condition of Packaging in the Customer's possession. The quantity of Packaging appearing in the invoices sent to the Customer shall be deemed to be correct should the Customer not provide proof to the contrary in writing within 8 days of the invoice date.

**6.7** The Customer shall give AL permission to track the history of a Cylinder. AL shall identify and correct any discrepancies such as "Cylinders considered lost" and "Cylinders returned by the Customer via a third party." AL shall inform the Customer of any discrepancies, but shall not disclose the name of the third party. Should a Cylinder be returned to AL by a party other than the Customer, the Customer shall pay the third party return ("TPR") fee specified for this purpose. The amount of TPR fees may be requested from AL at any time.

**6.8** The Customer shall not be reimbursed for the residual Gas in Packaging taken back by AL from the Customer.

#### **Article 7: Equipment and installation**

**7.1** AL shall deliver the Equipment to the Customer and remain its owner at all times, unless the Equipment is sold to the Customer by AL. Ownership of the Equipment may not be transferred to third parties. The Customer shall not modify, add or remove any item from the Equipment, including AL-specific identification marks, and shall take out an appropriate insurance policy.

**7.2** The risks, damage and loss of the Equipment shall be transferred to the Customer at the time of delivery, and during transport, loading or unloading, or storage on the Customer's premises, without prejudice to AL's ownership of the Equipment. The Customer shall compensate AL for damage caused to the Equipment, to the extent that it is liable, except in the case of gross negligence on the part of AL.

**7.3** Should the Customer itself use Equipment made available by AL, AL shall not be responsible for the use or improper use of said Equipment, nor for the consequences of such (improper) use.

**7.4** AL shall be responsible for the maintenance of Equipment resulting from normal use in accordance with the applicable rules and regulations. The Customer accepts that AL has outsourced some of its obligations to third parties. The Customer shall immediately inform AL in the event of malfunctions or incidents that may affect the proper functioning of the Equipment.

**7.5** Following termination of the Contract for any reason whatsoever, AL shall be entitled to remove the Equipment. The costs of dismantling and transporting the Equipment shall be borne by the Customer.

#### **Article 8: Leasing, non-use and Downtime**

**8.1** For the use of Equipment made available by AL, the Customer shall be charged a user fee from the day of delivery up to and including the day of return, based on rates to be determined by AL.

**8.2** Unless a long-term lease agreement for the Packaging has been concluded between the Customer and AL, AL shall require, for each Packaging unit made available to the Customer, a non-use fee determined on the basis of the applicable rate at the time of invoicing. The non-use fee shall be payable from the first day of the month following the month in which the Packaging is delivered. Any dispute relating to non-use must be raised, on penalty of being time-barred, within eight days of receipt of the first invoice relating thereto.

**8.3** The average rotation time for each Packaging unit shall be calculated on a monthly basis. For each Packaging unit with an average rotation time greater than a predetermined period (3 months and/or 6 months from the date of delivery), the Customer shall be liable for a long-term downtime fee at the applicable rates at that time. In any event, the non-use fee referred to in Article 8.2. shall remain payable. Where applicable, AL reserves the right to charge the Customer management fees.

#### **Article 9: Payment and invoicing**

**9.1** Payment must be made within 30 days of the invoice date, unless different payment terms have been expressly agreed in writing. Should payment in several installments have been agreed for Equipment, 40% of the total price shall be paid when placing the order, 50% following delivery of the equipment or the commencement of work and 10% on completion.

**9.2** In the event of late payment, the Customer shall due for interest on arrears of 1.5%, as well as all extra-judicial and judicial collection costs borne by AL. Out-of-court recovery costs shall amount to 15% of the amount to be recovered. Should the Customer be late making payment in respect of an invoice, AL shall be entitled to suspend or interrupt deliveries, or to require payment in cash on delivery or advance payment.

**9.3** AL's full entitlement to payment from the Customer shall be payable immediately should:

- A. A payment deadline have been exceeded,
- B. The Customer have been declared bankrupt or requested a suspension of payment,
- C. Seizures be made in relation to the Customer's assets or receivables,
- D. The Customer (legal entity) be dissolved or placed in liquidation,
- E. The Customer (physical person) apply for judicial reorganization proceedings, be placed under supervision or die.

**9.4** AL invoices shall be sent as PDF files by email in a standard format. The Customer undertakes to inform AL of the email address to which invoices must be sent

and to inform AL of any changes to this email address. At the express request of the Customer, invoices may be sent on paper, in return for the payment of additional administrative and shipping costs at AL's current rate.

**9.5** AL shall be entitled to transfer all or part of the claims against the Customer to a financial institution or an insurance company, in particular, but without limitation, within the framework of a factoring or trade receivables securitisation contract.

#### **Article 10: Retention of title**

**10.1** AL shall remain the owner of Products delivered insofar as the Customer:

- A. breaches or fails to fulfill its obligations under the Contract,
- B. does not or will not pay for work performed or to be performed under the Contract,
- C. has not paid the debts resulting from non-compliance with the Contract, such as damages, penalties, interest and costs.

**10.2** Insofar as there is a retention of title for the Products delivered, the Customer may not pledge them, encumber them, resell them or use them as payment.

**10.3** AL is entitled to immediately take back the Products subject to a retention of title, whereas the costs of transport shall be borne by the Customer. The Customer authorizes AL to enter the place where these Products are located, without prejudice to any other rights and obligations arising from the Contract.

**10.4** Should AL not be able to assert a retention of title because the Products delivered have been mixed or transformed, the Customer shall be obliged to pledge the new products to AL.

**10.5** The Customer must always do everything that may reasonably be expected of it to protect AL's property rights.

**10.6** Should third parties seize the Products delivered subject to a retention of title or wish to assert or enforce their rights to them, the Customer is obliged to immediately inform AL of this.

**10.7** Should AL wish to exercise the property rights mentioned in this article, the Customer shall grant AL and third parties designated by AL unconditional and irrevocable authorization to enter all premises where AL's assets are located, in order for the latter to be returned to AL.

#### **Article 11: Safety and quality**

**11.1** The Customer is expected to have read the safety data sheets associated with the Gas supplied by AL and the applicable safety rules for use of the Equipment. The Customer shall be entirely responsible for ensuring that any person using the Gas, handling the Packaging or using the Equipment in any way, is aware of the safety rules and applies them correctly.

**11.2** The Customer shall not carry out any work using oil, grease or lubricant in the vicinity of the Packaging or Equipment, nor store such products in the vicinity of the Packaging or Equipment and shall not, under any circumstances, transform the Packaging or Equipment.

**11.3** In order to avoid contamination of the Packaging and/or in order not to affect the general condition of the Packaging, it is expressly recommended that unused Packaging valves/taps, including for Packaging that is empty, are closed. The resulting remediation costs shall be borne by the Customer. AL draws the Customer's attention to the risk involved in filling the Cylinders themselves or having them filled by a third party in breach of its obligations. Such a procedure actually requires special expertise and care. Where applicable, AL shall accept no liability for any physical or material damage caused by the Cylinders or their contents.

**11.4** In terms of quality, the Gasses comply strictly with the specifications appearing in the latest edition of the "Gas Catalog" or other AL technical data sheets. The quality of Products may be determined by special terms and conditions.

**11.5** Where applicable, the Customer shall provide authorizations or permits relating to the storage of Products and the exemption from transport restrictions.

**11.6** The Customer shall set out the internal safety rules in force within the workplace. Any additional obligation imposed on AL to comply with these rules must be set out in detail in advance. AL shall comply with these rules at its sole discretion and reserves the right to invoice any resulting additional costs.

**11.7** AL shall be entitled to cancel or defer delivery if safety cannot be guaranteed at the place of delivery.

**11.8** Should AL suspect that the Products supplied to the Customer will be used illegally or for inappropriate purposes, AL shall be entitled to suspend performance of the Contract.

#### **Article 12: Warranty**

**12.1** For a period of six months following delivery, AL shall be responsible for the quality of services such as work, maintenance procedures on equipment supplied by the Customer, or delivery of an item or installation and/or assembly of a Product delivered. In the event that the agreed level of performance is lacking, AL reserves the sole right to elect to repair, replace or credit part of the price. All travel and living expenses incurred shall be borne by the Customer.

**12.2** The manufacturer's warranty shall only apply to parts expressly agreed in writing by the Customer and AL. In this case, this manufacturer's warranty shall replace the warranty set out in Article 12.1.

**12.3** The Customer may only invoke the warranty after having fulfilled all its obligations towards AL and must, in all cases, offer AL the option of repairing a potential defect and/or re-performing the work.

**12.4** No warranty is granted:

- A. Where the defects result from normal wear and tear, incorrect use, lack of maintenance or poor maintenance or installation, assembly, modification or repair carried out by the Customer or by third parties.
- B. For Products delivered, which were not new at the time of delivery or for items that were supplied by or on behalf of the Customer.
- C. For the inspection and/or repair of the Customer's items.

**12.5** The Customer may no longer claim a defective service if it has not notified AL in writing within 8 days of the discovery of the defect or if it had been reasonably able to discover it.

#### **Article 13: Liability and insurance**

**13.1** AL's liability shall be strictly limited to the obligations set out in the Contract. The Customer declares that the Products are only suitable for their intended use. From the moment of delivery, the use of Gas shall be the Customer's sole and exclusive responsibility. AL shall not be liable for losses or damage resulting from events beyond AL's control, or which are due to fault or negligence by the Customer and/or on the part of a third party over which AL has no control. In the event that the Customer can prove that it has suffered a loss or damage resulting directly from a failure on the part of AL, AL shall only be liable for direct and material damage in performance of the Contract up to a maximum amount of €250,000 per claim and per year. The Customer waives any right of recourse against AL, for itself and for any third party, for any claim by a third party and for any sum above the maximum amount of €250,000 and shall obtain a waiver of recourse from its insurer.

Furthermore, it is expressly agreed that AL shall not be held liable for indirect, immaterial or consequential damage of any kind such as, in particular, loss of profit, loss of savings, losses caused by an interruption of business, loss of production, operating losses originating from or resulting from this Contract.

**13.2** AL has taken out an insurance policy with a reputable company, intended to cover the financial consequences of its civil liability resulting from poor performance of its obligations imposed by the Contract and that has caused bodily injury or material damage. The Customer undertakes to take out appropriate insurance to cover its liability with respect to AL, AL employees and third parties and, in general, to cover everything located in its buildings or on its land (including

for Packaging, Cylinders provided by AL). Each party shall bear the costs of insuring their respective properties.

**13.3** Injuries, of any kind whatsoever, caused to the Customer's or AL's personnel by the Packaging or Equipment, shall be the responsibility of their respective employer. These provisions shall be without prejudice to the rights or actions to which the victims of accidents, their beneficiaries or social security are entitled.

#### **Article 14: Work and services**

**14.1** AL shall be responsible for resources to be deployed in order to perform work and/or provide services. AL shall be the sole party to assess the resources to be deployed for the work and/or services entrusted to it.

**14.2** AL shall perform the work and/or provide its services on working days, unless stipulated otherwise in writing. AL's staff shall report directly to AL in all circumstances. Where applicable, the Customer agrees to deactivate the Equipment for the duration of work or services.

**14.3** The price of any work performed and/or service provided by AL shall not include:

- A. the costs of earthworks, installation of piles, demolition, foundation, masonry, carpentry, plastering, painting, wallpaper, repairs or other construction work.
- B. the costs of connecting to utilities or other infrastructures.
- C. the costs incurred for the prevention and/or limitation of damage to property present at or in the vicinity of the location of maintenance work.
- D. the costs of removing materials, construction materials or waste.
- E. travel and accommodation expenses.

**14.4** Any changes to work and/or services, the design, specifications or quote, or any changes to performance deadlines that are necessary - (i) because the information provided by the Customer does not correspond to the reality or (ii) because the Customer has failed to comply with its obligations or (iii) due to unforeseeable circumstances beyond the control of the parties - may result in additional costs being borne by the Customer.

**14.5** The cost of additional works or services shall be calculated on the basis of the prices applicable at the time of the performance/provision of additional works or services.

**14.6** Acceptance shall take place when the Customer has approved the work and/or if it has commissioned the installation and/or after receiving a written notification from AL. Should the Customer not approve the work, it must inform AL in writing of this within 8 days, stating the reasons.

#### **Article 15: Force majeure**

**15.1** AL cannot be held liable for non-compliance with any obligation vis-à-vis the Customer for events that are not attributable to a failure and that are not due to the law, a legal act or generally accepted convictions, beyond the reasonable control of the latter or its subcontractors, including but not limited to natural causes, acts of third parties, war, civil unrest, exclusion, strikes, the failure of machinery or Equipment, explosion, flood, fire, earthquake, the failure of communication systems, computer hacking, the impossibility of obtaining a sufficient supply of electricity or raw materials, the unavailability of personnel or means of transport, suppliers failing to fulfill their commitments, other circumstances resulting in an interruption to the supply of goods or raw materials via AL's usual delivery routes, legal measures preventing AL from complying in whole or in part with its contractual obligations.

**15.2** Performance of the Contract shall be suspended for the duration of the force majeure situation described in Article 15.1 and the term of the Contract shall be extended for a period equal to the duration of the force majeure situation. For the sake of clarity, such a force majeure event shall not entitle the Customer to terminate the Contract.

#### **Article 16: Termination or suspension**

**16.1** Should the Customer find itself in one of the situations described in Article 9.3 or should it fail to fulfill its obligations towards AL, AL shall be entitled to suspend new deliveries, without prejudice to its other rights. Where applicable, all AL's receivables from the Customer shall become payable immediately.

**16.2** Either party shall only be entitled to terminate the Contract should one of the parties, after receiving written notice from the other party, fail to remedy the defect(s) within 30 days of the date of written notice of said failing(s).

**16.3** Should the Customer wish to terminate the Contract without a failure on the part of AL and should AL agree to this in writing, the Contract shall be terminated by mutual consent on a date to be agreed in writing. In this case, AL shall be entitled to compensation for all financial losses such as losses incurred, loss of profit and costs incurred.

**16.4** Should the Contract be terminated (prematurely), for any reason whatsoever, the Customer shall be obliged to voluntarily hand over the Packaging, Equipment and accessories available to AL. AL shall be entitled to take back its assets on the premises or in the Customer's facilities.

#### **Article 17: Security**

Should AL have reasonable doubts regarding the Customer's ability to comply with its obligations under the Contract, the Customer shall be required to provide adequate security on the request of AL. AL shall be entitled to terminate the Contract if sufficient security cannot be provided by the Customer.

#### **Article 18: Intellectual property rights**

**18.1** Unless stipulated otherwise in writing, AL shall retain the copyright and all industrial property rights to all software, Equipment and/or other items, information and/or data, such as analyses developed and/or made available during the preparation and/or performance of the Contract, drawings, (test) models, images and other (technical) documentation.

**18.2** Each party declares and guarantees to the other party that it shall not infringe the rights of third parties by signing or implementing the Contract. Each party shall hold the other party harmless against all claims that may arise therefrom and shall indemnify the other party against all damages, resulting from such a breach, suffered by the other party or by any third party claiming a breach of its rights.

**18.3** All drawings, (test) models, (technical) documentation, computer programs or other information media, as well as the specifications and all the items supplied to the Customer by AL before or during performance of the Contract and that are not part of the essential or agreed elements of works and/or services provided, shall remain AL's property and shall be returned to AL by the Customer at the end of the Contract.

#### **Article 19: Confidentiality**

The Customer is required to maintain the confidentiality of all data received or obtained directly or indirectly within the framework of the Contract, in the broadest sense of the term, unless it has obtained prior express written authorization from AL.

#### **Article 20: Protection of personal data**

All personal data collected by AL shall be stored securely and only used for legal commercial purposes. Personal data shall not be shared with third parties without first informing the Customer. Sensitive personal data shall not be shared with third parties without the Customer's prior consent. For more information, the Customer is invited to refer to Air Liquide's legal notices, which are available on AL's website. <https://www.airliquide.com/legal-notice>.

#### **Article 21: AL's Code of Conduct and combating corruption**

It is of the utmost importance for AL that its Customers and its Customers' employees adhere to the principles set out in AL's Code of Conduct, which is available at <https://www.airliquide.com/group/ethics>. The Customer must adhere to these principles.

The Customer also undertakes to comply with the laws and regulations applicable to the performance of its contractual obligations with AL, in particular as regards combating corruption. The Customer acknowledges that it has a policy in this regard and that adequate procedures have been put in place and shall continue to apply them in order to promote anti-corruption efforts and compliance with the applicable laws and regulations.

#### **Article 22: Penalty clauses/breaches of conditions**

In the event of a breach by the Customer of the conditions set out in Articles 18 and 19, the Customer shall be liable for a fine of €5,000, which is payable immediately, per breach for each day on which the breach persists, without prejudice to AL's rights to full compensation.

#### **Article 23: Transfer**

**23.1** The Customer shall not be authorized to transfer the rights and/or obligations of the Contract to third parties without prior written authorization.

**23.2** AL may also have the work performed and services provided by third parties without this affecting the Customer's rights and/or obligations as regards AL.

**23.3** These general terms and conditions of sale shall continue to apply to the Customer's and AL's successors, in particular in the event of the transfer of rights, assignment, absorption or merger, as well as within the framework of the transfer of activities from one party to the other.

#### **Article 24: Applicable law and disputes**

**25.1** The applicable law is that of the country where the registered office of AL, which signs the Contract, is located.

**25.2** All disputes arising between AL and the Customer, which cannot be resolved amicably, shall be referred to the competent court in 's-Hertogenbosch, the Netherlands.