

**1. General information – scope of application**

- 1.1. Our purchasing conditions apply exclusively. We do not recognise any conditions of suppliers that conflict with or differ from our purchasing conditions unless we have expressly agreed to their validity in writing. Our purchasing conditions apply even if we accept the supplier's delivery without reservation whilst aware of conflicting or differing conditions of the supplier.
- 1.2. All agreements reached between us and the supplier for the purpose of executing this contract must be laid down in writing in this contract. Verbal agreements are only valid if they have been confirmed by us in writing.
- 1.3. Our purchasing conditions also apply to all future business transactions with the supplier.

**2. Offer – offer documents**

- 2.1. Offers from suppliers are considered binding; they must be prepared in full and comprehensively. The supplier must learn about the local conditions before proposing an offer. Additional costs resulting from the failure to comply with this obligation are borne by the supplier.
- 2.2. Any additional expense that becomes necessary after additional orders have been placed is not determined or approved under the basic order but must be fixed and negotiated separately.
- 2.3. The supplier is obliged to refer us to alternatives that are more cost-efficient, innovative or more appropriate from a technical perspective.
- 2.4. We reserve the property rights and the copyrights in respect to illustrations, drawings, calculations, designs, samples and other documents. They may be not made accessible to third parties without our express written consent. They must be used exclusively for production purposes based on our order. They must be returned to us after processing the order without being asked. They must be kept confidential from third parties. The confidentiality obligation applies even after this contract has been executed. It expires if and when the production knowledge contained in the illustrations, drawings, calculations and other documents provided has become general knowledge.
- 2.5. All rights of use and economic rights with regard to documents provided to us by the supplier are transferred to us.

**3. Order and order confirmation; contractual obligations**

- 3.1. The supplier is obliged to confirm our order in writing within a period of five days, or to fully execute it (acceptance) without reservation in particular by dispatching the goods.
- 3.2. Orders and agreements are only binding if they are issued or confirmed by Procurement in writing. Services for which a written order is not issued do not bind us and will not be paid for even if such services are provided at the request of our staff. Subsequent agreements must be confirmed in writing by the purchaser in order to be binding. The execution of the order is deemed to constitute the supplier's acceptance of these purchasing conditions. The supplier vouches for the purchaser's adherence to all contractual obligations.
- 3.3. The supplier bears the procurement risk for its services unless otherwise agreed in individual cases.
- 3.4. The supplier is not entitled to have the services for which it is responsible carried out by a third party (e.g. a sub-contractor) without our prior written consent. The supplier is responsible for the behaviour of third parties should any be used.

**4. Prices**

- 4.1. The price stated in the order is binding. If no deviating written agreement exists, the price covers free delivery to the delivery address specified by us, including packaging and any ready-to-use installation. The supplier must remove the packaging material at our request.
- 4.2. This price covers all the services and ancillary services which are part of the ready-for-acceptance performance of the entire service specified in the contract in accordance with the offer documents and drawings or the supplier's catalogue. Likewise covered are any surcharges, taxes and fees with the exception of sales tax.
- 4.3. Official weighing is standard practice for prices by weight in the absence of our own weighing arrangements.

**5. Confidentiality**

The supplier is obliged to maintain confidentiality with regard to all information of which it becomes aware in the context of the business relationship. The supplier is obliged to sign a separate confidentiality agreement at our request.

**6. Invoices**

- 6.1. Invoices must not be enclosed with the goods but be sent separately by post and include the order number.
- 6.2. The purchase order reference as well as the number of each individual item must be specified in the invoice. Invoices are not payable if this information is missing. Invoice copies must be marked as duplicates.
- 6.3. VAT must be indicated separately.

**7. Payments**

- 7.1. Unless otherwise agreed, payments are made
  - within 14 days with a 2% discount
  - or within 60 days without any deduction.
- 7.2. The payment period begins as soon as the delivery or service is completed and a correctly issued invoice has been received. Where the supplier has to provide material tests, inspection reports, quality documents or other documents, the completeness of the delivery and service also requires receipt of these documents. A discount is also permissible if the purchaser offsets or withholds payments of a reasonable amount due to defects. The payment period begins after all defects have been removed.
- 7.3. We do not owe any interest on arrears. The default interest for our delay amounts to an annual five percentage points above the base interest rate. Statutory provisions apply in the event of a delay on our part with the deviation, where appropriate, that a written warning from the seller is required in each case. In the case of bank transfers, the payment is made in time if our

transfer order is received by our bank before the payment deadline; we are not responsible for delays by the banks involved in the payment process.

- 7.4. Neither payments nor commissioning constitute acknowledgement that deliveries and services are as stipulated in the contract.
- 7.5. We are entitled to offset or withhold payment to the extent permissible by law.
- 7.6. The supplier has a right to set-off or retention only on account of legally established or undisputed counterclaims.
- 7.7. Payment by instalments is subject to the provision in Section 8.5 only after receipt of the complete delivery.

**8. Delivery time**

- 8.1. The delivery time specified in the order as well as all other dates specified by the supplier are binding.
- 8.2. The timeliness of deliveries depends on the receipt by the receiving location specified by us; the timeliness of deliveries with installation or assembly as well as of services depends on their acceptance.
- 8.3. The supplier undertakes to inform us immediately in writing if circumstances occur or become apparent to it that indicate that the agreed delivery date cannot be adhered to.
- 8.4. If the supplier is in default, we may – in addition to further legal claims – claim a flat-rate compensation for the damage incurred by us due to the delay in the amount of 1% of the net price per full calendar week but no more than 5% of the net price of the goods delivered late. We reserve the right to prove that we incurred greater damages. The supplier has the right to provide evidence that we incurred no or considerably lower damage.
- 8.5. Early deliveries, deliveries outside the hours indicated by us for receiving goods as well as partial or multiple deliveries require our prior consent. Statutory provisions apply in the event of a delay in acceptance. However, the supplier must then expressly offer us its service even when a specific or identifiable calendar time is agreed for any activity or involvement on our side (such as the provision of material). If we find ourselves in default of acceptance, the seller may claim the reimbursement of additional expenses in accordance with statutory provisions (Section 304 of the German Civil Code). If the contract relates to a unique item made by the supplier (custom made), the supplier is only entitled to further-reaching rights if we committed ourselves to cooperate and are responsible for the failure of the cooperation.

**9. Delivery control**

We may check the materials, manufacturing processes and other work performed to provide the contractual service both during manufacturing and up to the delivery. If the inspection is not allowed without an important reason being given, we are entitled to withdraw from the contract without the supplier being able to claim compensation for damages. We may refuse payment for the service rendered by the supplier up to the date of the withdrawal if the acceptance of this partial performance is of no interest to us. The same applies if the inspection reveals defects or deviations from the contractual agreements. Instead of withdrawal, we are also entitled to request the immediate performance of the contract. We may at any time request a report on the goods ordered by us, especially in relation to the manufacturing progress. This right of control does not affect the supplier's obligations, particularly in terms of the warranty and liability.

**10. Transfer of risk and shipping**

- 10.1. Delivery must be free, unless otherwise agreed in writing.
- 10.2. For deliveries which include installation or assembly and for services, the risk is transferred upon acceptance; for delivery without installation or assembly, upon receipt by the receiving location specified by us.
- 10.3. All shipments must contain a packing slip or a delivery note with details of the contents as well as all order references. Otherwise, we are not responsible for any processing delays. Partial or remaining deliveries must be identified as such. In addition, dispatch notes must be sent to the procurement department as well as to the delivery address specified on the day of dispatch.
- 10.4. The purchaser must take out transport insurance. For shipping orders with carriers, it must be noted that haulage, logistics and storage (HLS) indemnity insurance need not be taken out because the purchaser is considered a waiver customer according to Section 29.1.2. of the General German Freight Forwarders' Terms and Conditions (ADSp). For the transportation of heavy goods, the HLS, liability and heavy-goods liability insurance must be taken out by the freight forwarders or crane companies on its behalf.

**11. Securities**

The supplier must obtain performance or warranty guarantees in our favour as well as, in the case of advance payments, advance payment guarantees.

**12. Safety and accident prevention regulations**

- 12.1. Deliveries and services must correspond to the legal and safety regulations that apply for us as well as any required permits and approvals. In addition, the following regulations, where applicable, must be observed:
  - the Product Safety Act, ProdSG,
  - the Industrial Safety Regulation,
  - the accident prevention regulations of professional trade associations,
  - VDE regulations (in particular DIN VDE 0100, DIN EN 60079-14, VDE 0165, DIN EN 60079-27 VDE 0170-27 and DIN VDE 0170/0171-13 VDE 0170-13),
  - the technical rules of TRD, TRG and TRAC (as long as they still are valid), and TRGS, TRBS, TRAS and RAB.
- 12.2. If quality requirements are based on ISO, CEN or DIN, they must also be observed in addition to the specifications, drawings and other information in the order and, if necessary, checked by the supplier and appropriate documentation provided. Modifications of the above provisions due to changes and adjustments must be independently considered by the supplier until the risk has

- been transferred.
- 12.3. Upon acceptance of the order, the contractor also undertakes to observe the following European regulations:
- the EU Electromagnetic Compatibility Directive,
  - the EU Machinery Directive 2006/42/EC of 17 May 2006,
  - other applicable EU directives (e.g. the PED and ATEX Directives),
  - all harmonised European standards applicable to the machinery ordered.
- In the absence of harmonised European standards for the ordered machinery or equipment, the contractor undertakes to observe the German standards and technical specifications.
- If there is a deviation from the harmonised European standards or German standards and technical specifications in justified cases, the achievement of the same level of safety must be demonstrated and documented by other means.
- The obligation implies that:
- a CE marking is placed on a ready-to-use machine (system or system components);
  - an EU declaration of conformity in German is included for a machine with a CE marking in accordance with Annex II A to EU Machinery Directive 2006/42/EC;
  - a declaration of incorporation and assembly instructions are added to an incomplete machine in accordance with Annex B to EU Machinery Directive 2006/42/EC. The meeting of the quality requirements of relevant internal market directives is – as far as possible within the scope of supply – made a condition and must be certified;
  - for a machine referred to in Annex IV to EU Machinery Directive 2006/42/EC, a certificate from an authorised testing and certification body is presented (if necessary, proof of the EU type-examination);
  - operating instructions are included in accordance with Annex I to EU Machinery Directive 2006/42/EC and DIN EN ISO 12100-2 in German (including the noise, emissions and vibrations parameters);
  - technical documentation is kept ready in accordance with Annex VII to EU Machinery Directive 2006/42/EC. The following components of the technical documentation are included in the scope of delivery of the machine (e.g., risk assessment, description of protective measures, and circuit diagrams).
- These commitments are an integral part of the contract. If they are not fulfilled, this will be deemed a culpable breach of the supplier's duty.
- We reserve the right to claim for damages due to the ensuing consequences (e.g. delay in delivery and any financial damages).
- 13. Environmental and quality assurance agreement**
- 13.1. The company of the supplier must comply with the recognised environmental and management systems, in particular DIN EN ISO 9001 and DIN EN ISO 14001. The supplier will provide the certification at our request.
- 13.2. We reserve the right to audit the supplier's production.
- 13.3. In case of doubt regarding the existence of a functioning environmental and quality management system, we also reserve the right to only obtain products and services from the supplier's certified delivery locations.
- 13.4. The CE marking must be clearly visible and the declaration of conformity included in the delivery.
- 14. Packaging**
- The delivery item must comply with the material specifications determined by the purchaser as well as with the DIN/VDE and similar regulations. Hazardous substances must be packed and identified according to the applicable laws; the corresponding safety data sheets must be provided. Dangerous goods must also be packed and marked according to the applicable laws; the classification of dangerous goods or, where applicable, "no dangerous goods" must be indicated on the delivery note. Only packaging made from environmentally-friendly materials is permitted. Packaging materials must be produced without CFC, be chlorine-free, chemically inert, groundwater-neutral and non-toxic when burned. The packaging materials must be marked with recognisable recycling symbols, such as the RESY symbol, or substance symbols, such as PE. The supplier is obliged to dispose of its waste, packaging, etc., independently and free of charge for the receiver and purchaser. If the supplier does not comply with this agreement, the disposal will be carried out at the supplier's expense without further notice.
- 15. Construction services**
- In the case of commissioning, the purchaser must be voluntarily provided with a certificate of exemption in accordance with the first sentence of the second paragraph of Section 48 of the German income tax law (EStG) or else the construction works cannot be executed or invoiced. The purchaser must be immediately informed of changes or a cancellation of the supplier's certificate of exemption. Construction services on the premises or a construction site of the purchaser may only be carried out if the supplier has confirmed in writing the receipt and the acknowledgement of the following documents:
- guidelines for contractors,
  - information sheet for contractors.
- 16. Warranties**
- 16.1. The acceptance of goods is subject to an examination for defects, particularly in relation to accuracy and completeness. We undertake to inspect the goods within a reasonable period of time for any quality and quantity deviations. The complaint is timely if, for obvious defects, it is sent by us within a period of five working days calculated from the receipt of the goods or, in the case of hidden defects, from the time of discovery. The date of the postmark is decisive. Other than for obvious defects, the supplier waives the objection to the late notification of defects in accordance with Sections 377 and 381(2) of the German Commercial Code (HGB). If a defect is detected during the inspection, the supplier bears the costs of the goods inspection regardless of the assertion of other claims.
- 16.2. We are entitled to all statutory warranty claims and warranty rights. Regardless of this, we are entitled to demand corrective action or a replacement for the defective item at our discretion. In this case, the supplier is obliged to bear all the costs required for the purpose of rectifying the defect or for replacement deliveries. We expressly reserve the right to claim damages, in particular to claim damages instead of the service.
- 16.3. The warranty period is 36 months calculated from the transfer of risk unless otherwise agreed in the order. For newly delivered, newly supplied or repaired parts, the limitation period starts again unless the supplier removes the defect expressly as a gesture of goodwill.
- 16.4. Repairs may be performed without notice at the expense of the supplier if the delivery is made after the original deadline and we have an interest in immediate rectification in order to avoid a delay of our own or another emergency.
- 16.5. Faults in a delivery or service entitle us to withdraw from all contractual relations with the supplier that involve the regular delivery of goods or the regular provision of services or work if there is a legitimate fear that errors or defects in a delivery or service will also have a lasting effect on other deliveries or services. This does not apply if the supplier can demonstrate that errors of this nature need no longer be feared.
- 16.6. Performance parameters specified by the supplier are considered guarantees (within the meaning of "Garantien").
- 16.7. The supplier undertakes to keep spare parts available for the goods delivered by it for a period of 15 years.
- 16.8. The supplier releases us from any existing claims by third parties in the event of defects of title.
- 16.9. **Withdrawal and termination rights**
- 16.9.1. In addition to the statutory withdrawal and termination rights, we are entitled to withdraw from or cancel the contract with immediate effect if: the supplier has stopped supplying its customers; a significant deterioration of the financial situation of the supplier occurs or is likely to occur, thereby jeopardising the fulfilment of a delivery obligation to us; the supplier is in excessive debt or insolvent, or the supplier requests the opening of insolvency proceedings over its assets or a similar procedure to settle debts; or the supplier suspends its payments.
- 16.9.2. If the supplier has already provided part of its service, we will only be entitled to withdraw from the whole contract if we have no interest in the partial service.
- 16.9.3. If, based on the above contractual withdrawal or termination rights, we withdraw from or terminate the contract, the supplier must reimburse us for the resulting damage unless it is not responsible for the emergence of the withdrawal or termination rights.
- 16.10. **Formal acceptance**
- 16.10.1. The supplier's performance of work is only formally accepted after full completion. This also applies to the acceptance of subsequent work following a complaint.
- 16.10.2. Partial services no longer visible or accessible by the time of acceptance must be checked immediately after their completion and reported to the purchaser in writing. A written record must be made of this. Such checks and reports do not constitute partial acceptance. A reversal of the burden of proof is not associated with this arrangement.
- 17. Product liability – indemnity – liability insurance**
- 17.1. Where the supplier is responsible for a product defect, it is obliged to indemnify us from claims for damages by third parties on first request as the cause lies within the supplier's sphere of control and organisation and it is liable with respect to third parties.
- 17.2. In the context of its liability for cases of damages within the meaning of Section 17.1, the supplier is also obliged to reimburse any expenses in accordance with Sections 683, 670, 830, 840 and 426 of the BGB arising from or in connection with a recall operation instigated by us. Where feasible and reasonable, we will inform the supplier about the content and scope of the recall measures to be implemented and give it the opportunity to comment. This does not affect any other legal claims.
- 17.3. The supplier undertakes to take out product liability insurance with an insured sum of five million euros per personal injury / property damage – lump sum – and to demonstrate this at our request. If we are entitled to any further claims, these remain unaffected.
- 18. Property rights**
- 18.1. The supplier guarantees that no third-party rights are violated within Germany in connection with its delivery.
- 18.2. If a third party does make a claim against us, the supplier is obliged to indemnify us from these claims on first written request. We are not entitled to enter into any agreements with third parties without the supplier's consent, particularly to conclude a settlement.
- 18.3. The supplier's indemnification obligation refers to any necessary expenses incurred by us as a result of, or in connection with, a third-party claim.
- 19. Retention of title – provision**
- 19.1. We reserve the title to any parts we provide to the supplier. Such items must – as long as they are not processed – be stored separately at the expense of the supplier, identified as belonging to the purchaser, and insured to an appropriate extent against destruction and loss. The processing or transformation by the supplier is performed for us. If the good subject to retention of title is processed with other items not belonging to us then we acquire joint ownership of the new item at the ratio of the value of our item (purchase price plus VAT) to the other items processed at that time.
- 19.2. If the item provided by us is inseparably mixed with other items not belonging to us then we acquire joint ownership of the new items at the ratio of the value of the good subject to retention of title (purchase price plus VAT) to the other items at the time they are intermixed. If the mixing is done in a way that the supplier's item can be regarded as the main item, it is agreed that the supplier assigns proportional joint ownership to us. The supplier preserves sole or joint ownership for us.
- 19.3. The transfer of ownership of the goods to us must be carried out

- unconditionally and regardless of the payment of the price. However, if we accept an offer from the supplier to transfer ownership conditional on the payment of the purchase price in individual cases, the retention of title of the supplier expires upon payment of the purchase price for the delivered goods at the latest. We also remain authorised in the ordinary course of business before the payment of the purchase price to resell the goods under advance assignment of the resulting claim (alternative application of the simple retention of title extended to the resale). This therefore excludes all other forms of retention of title, especially expanded, transferred and extended to further processing.
- 19.4. We retain ownership and intellectual property rights to illustrations, drawings, calculations, plans, executive statements, product descriptions and other documents. Such documents must be used exclusively for contractual performance and be returned to us after execution of the contract. The documents must be kept confidential from third parties, even after termination of the contract. The confidentiality obligation is void if and insofar as the knowledge contained in the documents provided has become generally known.
- 20. Long-term supplier's declarations**  
The supplier will in principle only provide products from the European Union as well as from countries with preferential agreements in place, and will provide long-term supplier's declarations at our request in relation to the products it obtains. If the supplier is unable to do so, it undertakes to inform us of this immediately after receiving our order.
- 21. E-procurement**  
The supplier undertakes to handle orders with us that are generated by automatic electronic ordering systems.
- 22. Force majeure**  
Where the parties are prevented from meeting their deadlines due to a force majeure, the deadlines are extended by the duration of the hindrance plus a reasonable lead time. Only war and natural catastrophes are considered force majeure.
- 23. Corporate social responsibility (CSR)**  
We undertake to respect human and labour rights as well as environmental protection regulations, and attribute increasing importance to the capacity of our suppliers to support this corporate strategy geared towards social responsibility and sustainability.
- 23.1. **Code of conduct for suppliers**  
The code of conduct for suppliers is published on our website: the German version can be found at <http://www.airliquide.de> and the English version at <http://www.airliquide.com>.  
We expect our suppliers to meet their business responsibilities with integrity and transparency, and to adhere to the rules set out in our code of conduct for suppliers. The supplier undertakes to comply with the supplier's code and to ensure that all of its employees and subcontractors do the same.
- 23.2. The supplier undertakes to implement an action plan during the contract period in order to:
- register for each piece of work the number of its employees and those who enter and leave;
  - register the number of accidents involving a loss of working hours and the number of accidents not involving the loss of working hours as well as the accident frequency rate of employees, contractors and temporary workers;
  - measure and optimise water and energy consumption;
  - measure and optimise the greenhouse gases emitted;
  - measure and reduce emissions of nitrogen oxides (NOx), sulphur oxide (SOx), and volatile organic compounds (VOC);
  - measure and reduce the discharge of oxidisable material and particle matter in water.
- 23.3. The supplier agrees to be evaluated by us or a third party designated by us with respect to its CSR performance. If the result of this evaluation is less than or equal to 34/100, or if the score for one of four criteria (environment, labour law, fair business practices, sustainable sourcing) is less than or equal to 20/100:
- the supplier undertakes to take the appropriate corrective action within 18 months;
  - the supplier commits to being evaluated again after a period of 18 months at its own expense by us or a third party designated by us.
- 23.4. For the sake of clarity, a violation of one of the obligations referred to in this paragraph by the supplier or one of its subcontractors constitutes a material breach of this agreement which gives Air Liquide cause for termination at its sole discretion.
- 24. Supplementary and final provisions**
- 24.1. Unless our purchasing conditions contain a relevant regulation, the statutory provisions apply.
- 24.2. If provisions of this contract are or becomes invalid, or if a gap in the conditions emerges, the validity of the remaining provisions is not affected by this.
- 25. Export control clause**
- 25.1. The parties agree that all transactions correspond at all times to applicable export controls, customs and foreign trade laws as well as any relevant changes and adjustments of these. In particular, the supplier must procure all of the export licenses needed for the products supplied, unless otherwise agreed.
- 25.2. The supplier must produce in writing all of the information and data with regard to the products delivered that are needed by Air Liquide to comply with the export control laws and regulations applicable in the country of export and import.
- 25.3. If these rules are breached, the supplier is fully liable irrespective of any other liability provision agreed with Air Liquide.
- 26. Place of fulfilment and jurisdiction**
- 26.1. Unless otherwise indicated in the order, the place of performance is the location of our registered office.
- 26.2. The jurisdiction for any disputes arising from the business relationship between us and the supplier is Düsseldorf.
- 27. Applicable law**

The law of the Federal Republic of Germany applies excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).