

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

i. Definitions

- a. **"Agreement"** these General Terms and Conditions and/or where a Supply Agreement is entered by the Customer, the other specific terms of the Supply Agreement including any covering letter or commercial details, together with all attachments and any other documents referred to in this Agreement.
- b. **"Customer"** the person or entity identified in this Agreement or as stated in the trading Account as created under this Agreement; and
- c. **"Customer Equipment"** means all property, , plant and equipment owned or leased by the Customer or its affiliates, parent companies, subsidiaries, co-owners, co-lessees and joint ventures other than from Linde and includes surface facilities and other property on Customer's site that may be used in connection of this Agreement;
- d. **"Gas "** means any gas or gas mixture including liquefied, solidified, compressed or dissolved gas;
- e. **"Gas Containers"** means cylinders and storage vessels of any descriptions;
- f. **"Linde"** means Linde India including its officers, directors, employees and representatives from time to time;
- g. **"Services"** means any services provided by Linde to Customer in relation to the supply of the Gas and Gas Containers;
- h. **"Supply Agreement"** means a specific agreement entered into between Linde and the Customer in relation to the supply of Gas by Linde to the Customer for a specified period of time and conditions.

2. APPLICATION OF TERMS AND CONDITIONS

- i. Save and except as agreed between Linde and Customer in the Supply Agreement, the clauses in these General Terms & Conditions supersede all terms and conditions pre-printed on Customers' documentation including but not limited to Customer's purchase orders. No terms or conditions endorsed upon, delivered with or contained in Customer's acceptance or acknowledgement of the delivery of products, purchase order(s), specifications or similar documents will amend or vary the provisions of these General Terms & Conditions and Customer waives any right which it might otherwise have to rely on such terms and conditions.

3. Account Registration

- i. You must ensure that the details provided by you on registration or at any time are correct and complete. For existing customers of Linde, you are responsible to ensure that only authorized personnel or employees are allowed to register for MyAccount, using your valid delivery note, invoice and/or any other documents that may be accepted in the future.
- ii. You must inform Linde immediately of any changes to the information provided when registering. For existing customers of Linde, you are responsible to inform Linde if any of your authorized personnel or employees that has/have registered for MyAccount user and password leave your employment.
- iii. Linde may suspend or cancel your registration immediately at our sole discretion without assigning any reason whatsoever. The suspension or cancellation of your registration and your right to use this website shall not affect either's party's rights or liabilities.

- iv. For credit account application, you hereby agree to Linde conducting all necessary credit checks (this will not affect your credit rating).

4. PRICES

- i. Prices appearing in Linde Catalogues and Price lists are those prevailing at the date of the issuance of the same and are subject to variation from time to time at Linde's discretion without any prior written notice to the Customer.
- ii. All Prices are net of and exclude any applicable taxes or equivalent charges imposed on the sale of Items by Linde to Customer including but not limited to Goods and Services Tax (GST).

5. DELIVERY AND COLLECTION

- i. Customer shall provide unimpeded and safe access to its premises at all times for the delivery of Gas and collection of Gas Containers by Linde or any authorized contractors on behalf of Linde. Customer shall be liable for any damage to any of Linde's assets including but not limited to the vehicles or Gas Containers, if such unimpeded and safe access is not provided.
- ii. Gas shall be delivered at Customer's premises and/or designated premises included in the Supply Agreement or Account. The Customer's premises and/or designated premises shall be referred to as the "Delivery Point" for the purpose of all transactions under this Agreement.
- iii. Gas Containers' deliveries and collections shall be on a full-for-empty basis at the Delivery Point. If Customer requests any variation from the above Linde may levy an additional charge for any such supply.
- iv. For any collection of the empty Gas Containers, Customers shall render all possible assistances in ensuring that all empty Gas Containers are brought to an agreed designated area within the Delivery Point for the collection by Linde.
- v. Where Customer chooses to return the Gas Containers directly or through Customer's own third party contractor, Customer shall in advance notify Linde on the number of Gas Containers to be returned and the Linde site which the Customer is returning the Gas Container to. Customer shall ensure that all Gas Container's valves are properly closed before returning the Gas Containers to Linde. An official receipt must be obtained from Linde before leaving Linde's premises to acknowledge the receipt of returned Gas Containers.
- vi. In the event an electronic method of requesting delivery and collection of the Gas Containers is implemented by Linde, then the delivery and return of all Gas Containers shall be proven through the data captured and stored in the electronic device used. At that point, Linde shall have the right to discontinue the issuance and/or printing of any delivery document to prove the delivery and/or return of any Gas Containers. The Customer hereby acknowledges and accepts that save and except for manifest errors, the data captured and stored in the electronic device shall be conclusive evidence of all delivery and return of the Gas Containers.

6. PAYMENT TERM

- i. Customer shall make payment in full for all Gas delivered and Gas Container's rental in accordance to the payment term set under the said Account.
- ii. All payments to be made by the Customer shall be in according to the tax invoices issued by Linde which includes the Goods & Services Tax (GST) of 6%.
- iii. If Customer fails to pay for any of the Gas supplied and Gas Containers' rental charges when due, the Customer shall return the Gas Container to Linde immediately whether it has been formally demanded or not by Linde. The return of the Gas Container by the Customer shall not in any way prejudice Linde's right to claim for any overdue payment under the Account.
- iv. If the Customer uses cheque as a mode of payment for the Gas and Gas Containers charges, the Customer shall ensure that there is sufficient fund to cover for the amount stated in the issued cheque. If any of the Customer's cheque is rejected and/or bounced when presented by Linde,

the Customer shall be liable to pay Linde an administrative charge of RMxxxx for each cheque in addition to the amount due under the Account.

7. USE OF GAS AND GAS CONTAINERS

- i. All Gas supplied by Linde are for the sole use of the Customer and unless otherwise consented by Linde and/or as agreed in the Supply Agreement, the Customer shall not re-sell the Gas or the Gas Containers.
- ii. Customer warrants and undertakes that Customer shall not use the Gas or Gas Containers for any illegal activities or any activities that might endanger the safety of any persons or damage any property.

8. GAS CONTAINER RENTAL CHARGE

- i. Gas Container rental shall be charged at the determined rates as stated in the tax invoices and will be levied on each Gas Container in the Customer's holding for each day of the holding. Linde shall issue an invoice to the Customer at the end of each invoicing period which is defined as the period from the first date of the holding of that Gas Container up to the date of the invoice to be issued. For the avoidance of doubt, the Gas Container rental shall be exclusive of the Goods & Services Tax (GST).
- ii. Linde shall have the right to vary the rental of the Gas Containers at its discretion provided that Linde shall notify the Customer at least one (1) month before the newly adjusted rental charge is to take effect.
- iii. If the Customer fails, neglects and/or refuses to return the Gas Containers once demanded by Linde, Linde is hereby granted an unconditional license to enter into the Customer's premises for the purpose of retrieving the Gas Containers either full or empty. Under such circumstances, the Customer shall not be entitled to any refund in respect of unused Gas remaining in the Gas Containers but shall be liable for all costs incurred by Linde in retrieving the Gas Containers under the foregoing conditions.

9. HANDLING AND USE OF GAS

- i. Precautions are to be observed in the handling and use of Gas as appear on labels attached to Gas Containers, material safety data sheets and in other related documents. These precautions must be strictly observed for the safe use of the Gas. Customers are responsible for bringing these precautions to the attention of all persons using or handling the Gas including their staff and/or any third party handling the Gas on their behalf, failing which, Linde shall have no liability whatsoever in relation to the Customer's (including but not limited to employees, agents, contractors or representatives) failure to observe such precautions and Customer shall indemnify Linde against all claims, costs, expenses or liabilities incurred by Linde resulting therefrom from such failure.

10. CUSTOMER'S RESPONSIBILITY

- i. All Gas Containers and peripheral equipment including valves, manifold and regulators are made available to Customer for its sole use, and shall remain the property of Linde at all times. The Customer shall be responsible for the safe custody of these items and shall indemnify Linde against all loss or damage to the items including but not limited to fire damage. In case of loss or damage to Linde's Gas Containers or any other Linde's equipment supplied to the Customer, Customer shall pay the cost of restoring such Gas Containers or other equipment to a serviceable condition or where the Gas Containers or other equipment is lost or damaged beyond repair, Customer shall pay the replacement cost for the same as determined by Linde to be applicable at the time of the loss.

- ii. The payment for lost or missing Gas Containers does not in any way transfer the ownership of the Gas Containers to the Customer. In the event that the Customer is able to return or manage to recover the lost or missing Gas Containers, the Customer undertakes to immediately return and/or make such arrangement to return the said Gas Containers to Linde. Depending on the condition of the returned Gas Containers, Linde shall have the right to retain the replacement costs paid by the Customer to make good the Gas Containers and/or replace the damaged Gas Containers.
- iii. Linde's Gas Containers in possession of the Customer are for the sole use of the Customer who shall not re-fill or allow such Gas Containers to be refilled by any party other than Linde.
- iv. Customer shall not sell or offer for sale, mortgage, pledge, underlet, loan or part with the possession of the Gas Containers supplied and owned by Linde.
- v. Customer shall not allow any lien to be created thereon, and shall pay all rents, sales, taxes, charges, and impositions payable in respect of the premises whereon such Gas Containers are situated and shall protect the same against distress, execution or seizure and indemnify Linde against all losses, damages and expenses incurred by them by reason or in respect thereof.

11. LIABILITY, WARRANTY & EXCLUSIONS

- i. Linde shall be liable for personal injury or death to the extent that it is caused by Linde's negligence.
- ii. Linde shall be liable for direct loss and/or damage to property suffered by Customer only to the extent caused by Linde's breach of this Agreement or any negligent act or omission in performance of this Agreement, in which case Linde accepts liability up to a maximum annual limit of ten percent (10%) of the annual revenue received by Linde from Customer under this Agreement and/or Account in the preceding year. For the first year, Linde accepts liability up to a maximum of ten percent (10%) of the revenue received up to the date of the incident.
- iii. Linde's liability for indirect or consequential loss or damage (including but not limited to, loss of revenue, loss of production, loss of profit, loss of customers, loss of contracts, and loss of custom, goodwill or reputation) is excluded.
- iv. Customer indemnifies Linde against any loss, damage or claims arising from Linde's presence on Customer's site except to the extent caused by Linde's negligence.
- v. Linde warrants that at the time of delivery, Gas shall conform to the purity specifications set out in the Material Safety Data Sheet relating to that Gas. All warranties and conditions which arise from statute and relate to the supply of goods and services are excluded from this Agreement except to the extent that such exclusion is prevented by law. Should the Gas fail to conform to the purity specifications, Linde shall, at its option, replace the nonconforming Gas or credit Customer's account for the price of the nonconforming Gas.
- vi. Linde shall not be liable for any shortage, loss, damage or discrepancy in Gas or Gas Containers or failure to perform any Services unless notified to Linde in writing within five (5) business days of completion of the Services or receipt of the relevant Gas or Gas Containers by Customer. This exclusion of liability shall not apply if Customer proves that it was not reasonably possible to notify Linde within this time period, and such notification was given as soon as was practicable and in any event within five (5) working days after Customer became aware, or could reasonably be expected to have become aware, of such shortage, loss, damage or discrepancy.
- vii. Where any shortage, in Gas or Gas Containers and/or failure to perform the Services is notified to Linde in accordance with Clause 11.6, Linde shall rectify the shortage, in the Gas or Gas Containers, or re-perform the Services free of charge. If Linde complies with this obligation it shall have no further liability in respect of, or arising from the relevant Gas, Gas Containers or Services under this Clause 11.7.

- viii. If Linde's performance of any contract obligation by its normal means is prevented or delayed due to any cause beyond Linde's reasonable control, which impedes Linde's performance of any obligation under this Agreement, including but not limited to, natural disasters, accidents, acts of terrorism, revolution, riot, insurrection, pandemics, public health emergencies and government directive, disruption in utilities or feedstock supply, industrial disputes, and any event of Force Majeure affecting Linde's contractors or subcontractors that contract obligation shall be suspended during the period Linde is affected by such cause.
- ix. In the event of supply of Gas is being interrupted under Condition 11.8 and for the duration of the period Linde is affected by such cause, Linde may obtain Gas from another source, in which case Linde reserves the right to vary the price for the duration of the affected period to recover its additional costs, such additional costs to be notified to Customer in advance,.
- x. To the extent permitted by applicable laws and except as expressly set out in this Agreement, Linde shall have no liability in connection with this Agreement except as set forth in this Clause 11.

12. INTELLECTUAL PROPERTY & CONFIDENTIALITY

- i. Any know how, information or documents supplied at any time by Linde to Customer shall be treated as confidential by Customer and shall not be disclosed to any third party or used for any purpose other than for the purpose of this Agreement without the prior written consent of Linde, unless and until the same is public knowledge other than through default of Customer or comes into Customer's possession bona fide from a third party.
- ii. Linde retains all intellectual property rights in its drawings, specifications, data and all other information and documents prepared by Linde for Customer in whatever medium.
- iii. The obligations set out in this Clause 12 shall survive termination or expiry of this Agreement.

13. GENERAL

- i. Linde's failure or delay in exercising or its omission to exercise any right, power, privilege and/or remedy accruing hereunder upon any default by the Customer, shall not impair any such right, power, privilege and/or remedy or be construed as a waiver thereof. Linde's acquiescence of any of the Customer's previous act of default(s) shall not impair any right, power, privilege and/or remedy of Linde's in respect of any other or subsequent default.
- ii. If any provision of this Agreement is declared by any judicial or other competent authority to be void, voidable, invalid, unenforceable, unlawful and/or illegal for any reason, then such part shall be severed from this Agreement. The remainder of this Agreement shall continue to be valid, enforceable and remain in full force and effect to the fullest extent permitted by law.
- iii. In the event of conflict between this Agreement and the Supply Agreement, the terms and conditions in the Supply Agreement shall prevail over this Agreement and any other terms set out in Customer's correspondence, order forms or conditions of purchase.
- iv. These Terms & Conditions shall be governed by the laws of India and the Courts in India shall have exclusive jurisdiction over any matters raised in relation to the General Terms and Conditions.
- v. Linde reserves the right to amend the General Term and Conditions without notice at any time. Your use of this website following such changes constitutes your agreement to be bound by the new General Terms and Conditions.