

## GENERAL CONDITIONS OF SALE

### 1 APPLICATION OF GENERAL CONDITIONS

1.1 These general conditions ("General Conditions") shall be an integral part of all contracts for the sale of goods or services ("the Contract") by Air Liquide Malaysia Sdn. Bhd. ("ALM") to the customer ("Customer").

1.2 No addition to, nor any variation or waiver of these General Conditions nor any terms or conditions provided by the Customer or printed on the Customer's purchase order, shall have any legal effect unless expressly agreed to in writing on behalf of ALM by a duly authorised employee of ALM.

When the Customer places a purchase order or service order or work order for Goods and/or Services which contains conditions which vary from these General Conditions, any subsequent delivery of the ordered Goods and/or Services to the Customer shall be construed as a counter-offer to supply based on these General Conditions. Such counter-offer is deemed to be accepted by the Customer when Customer accepts the Goods and/or Services when delivered.

1.3 All telephone and telegraphic orders should be confirmed by an official purchase order or letter. All purchase orders should specify the date of the purchase order, the type and quantity of Goods and/or Services required.

1.4 Unless otherwise stated, a written quotation by ALM constitutes an offer to sell the Goods and/or provide the Services described based on these General Conditions.

1.5 In these General Conditions:

"Affiliated Company" means, with respect to any person, any other person that (a) owns and controls the first person, (b) is owned and controlled by the first person, or (c) is under common ownership and control with the first person, where "own" means ownership of fifty percent (50%) or more of the equity interests or rights to distributions on account of equity of the person and "control" means the sole or joint power to direct the management or policies of the person, whether through the ownership of voting securities, by contract, or otherwise.

"Goods" means all goods (including gas and equipment) sold by ALM.

"Gas" means any gas or gas mixture or chemicals sold by ALM including liquefied, solidified, compressed or dissolved gases.

"Equipment" means any other products other than Gas sold by ALM.

"Services" means all services supplied by ALM to the Customer, including the delivery and/or installation of Goods.

"ALM Equipment" means all things required for evaporating, storing, transporting and distributing Gas and includes cylinder manifolds, pipelines, cylinders and gas/liquid gas generating plants which belong to ALM.

"Direct Debit" means the method of payment whereby Customer agrees that ALM's bank is allowed to deduct the payment directly from the Customer's bank account on the 25<sup>th</sup> of each calendar month or on the next working day if the 25<sup>th</sup> of the calendar month falls on a Saturday, Sunday or Public Holiday.

1.6 Unless the context requires otherwise, any reference to the singular include the plural (and vice versa).

### 2 PRICES

2.1 The Contract prices for Goods and Services shall be the price effective at the time of delivery, unless otherwise agreed in writing, notwithstanding that the delivery may be delayed by agreement or otherwise.

2.2 All taxes including Goods and Services Tax ("GST") are not included in the Contract prices. Such taxes if applicable, shall be borne by the Customer.

2.3 Subject to Clause 2.1, prices shall be subject to alteration by ALM with two days' written notice given to the Customer.

2.4 ALM will charge for Certificates of Analysis for Gases if required.

### 3 PAYMENTS

3.1 After the establishment of credit facilities and unless otherwise agreed by ALM in writing, full payment of ALM invoices must be made within 30 days from the date the ALM invoices are received in the manner prescribed by ALM in the ALM invoices or by way of Direct Debit initiated by ALM. No discount or allowance will be made unless specifically stated by ALM. All fixed payments shall be invoiced in advance, on the first (1st) day of the month.

3.2 In the event that there are insufficient funds for ALM's bank to deduct the payment on the 25<sup>th</sup> of the month or on the next working day if the 25<sup>th</sup> of the said month falls on a Saturday, Sunday or Public Holiday, Customer has to ensure that there are sufficient funds available for deduction on the 28<sup>th</sup> of the month or on the next working day if the 28<sup>th</sup> of the said month falls on a Saturday, Sunday or Public Holiday.

3.3 In the event of the Customer failing to comply with ALM's terms of payment, ALM reserves the right to discontinue forthwith the provision of any further Goods and/or Services to the Customer and payment shall become immediately due for all outstanding goods and services supplied.

3.4 In respect of any outstanding amounts due and payable to ALM, Customer shall indemnify ALM for the costs of collection including but not limited to legal fees incurred in connection with such collection.

3.5 ALM reserves the right to charge interest on any unpaid amount at the prevailing BNM's prime rate plus 2% per annum, calculated daily and compounded monthly from the day after the due date until the day the amount is paid.

### 4 DELIVERY AND RETURN OF GOODS AND ALM EQUIPMENT

4.1 Customer shall bear all transport charges for the transportation of Goods and/or ALM Equipment to and from Customer's premises.

4.2 When ALM delivers or collects Goods and/or ALM Equipment and ALM or its carrier enters upon Customer's premises, Customer shall provide full and safe access to ALM or its carrier and shall indemnify ALM and its carrier against the cost of all losses, damage to property and injury to persons, occurring directly or indirectly as a result of the failure by the Customer to ensure the said full and safe access.

4.3 Customer shall be responsible for providing adequate labour and/or material handling equipment for loading and unloading of Goods and/or ALM Equipment at its premises.

4.4 When ALM arranges to collect Goods and/or ALM Equipment from the Customer's premises, the Customer shall ensure that the Goods and/or ALM Equipment are all available for collection at an easily accessible central point and that they are ready for loading at the time ALM arrives to collect them.

4.5 Whenever Goods and/or ALM Equipment are being returned to ALM, the Customer shall ensure that they are returned in safe condition, both from the point of view of risk to persons handling them and in their vicinity and from the point of view of the risk of damage to the Goods and/or ALM Equipment themselves.

4.6 If the Customer fails to accept delivery of Goods, ALM shall be entitled to make arrangements for storage of Goods and to charge the Customer accordingly. The Customer shall be responsible for the risk of loss of or damage to the Goods and for payment as if the Goods had been delivered.

4.7 Delivery shall be deemed to take place the moment the Goods pass over the side of the vehicle in which they were transported at the Customer's premises or when the Gas is transferred to Customer at the inlet valve of ALM Equipment.

4.8 Return of Goods is not allowed. However, at ALM's absolute discretion, ALM may allow the return and refund of cylinders or Gas provided that no Gas has been released from the cylinders.

## 5 INSTALLATION AND COMMISSIONING ON SITE

- 5.1 When the Customer requires the installation of ALM Equipment, the Customer shall at its own expense furnish ALM sufficient information to enable ALM to proceed with the installation.
- 5.2 Customer undertakes to:
- comply with all legal and statutory regulations and in particular, shall obtain and maintain all necessary permits in relation to the installation and operation of ALM Equipment and for the utilities that Customer provides;
  - provide at no cost and properly maintain with safe and easy access at all times to ALM's employees and delivery trucks, a location for ALM Equipment as well as all construction work, fences, safety devices, power supply, telephone line, water, etc. in accordance with the instructions given by ALM;
  - connect its own piping to the outlet valve of ALM Equipment and take appropriate measures to prevent any back-flow into ALM Equipment unless otherwise agreed;
- 5.3 All works to be carried out by Customer as described in Clause 5.2 above shall be carried out to ALM's reasonable satisfaction, and in the event that Customer has not complied with Clause 5.2 above, ALM reserves the right to terminate the relevant Contract and all costs and expenses incurred by ALM up to such date shall be paid by Customer to ALM.
- 5.4 ALM undertakes to:
- provide, transport, install and start up ALM Equipment;
  - ensure the compliance of ALM Equipment with the applicable regulations in force;
  - provide at start up, a safety briefing of ALM Equipment to Customer at the location of ALM Equipment.
- 5.5 An acceptance report for ALM Equipment, describing ALM Equipment and containing Customer's confirmation that the connections made by Customer are suitable and that the utilities are ready to be supplied, shall be signed by both parties at the start up of ALM Equipment.
- 5.6 Any person engaged in work on site in connection with the Contract (other than an employee or subcontractor of ALM) shall be deemed to be an employee or agent of Customer. Customer shall be liable for any injury or damage suffered by ALM, its employees, agents or subcontractors on Customer's site, except to the extent caused by the negligence of ALM, its employees, agents, or sub-contractors.

## 6 ALM EQUIPMENT ON LOAN & RESPONSIBILITY FOR ALM PROPERTY

- 6.1 Where ALM Equipment are loaned to the Customer, the period of loan shall commence on the date of delivery and cease on the date which ALM Equipment on loan are received by ALM.
- 6.2 Customer shall use ALM Equipment in a skillful and proper manner, so that they remain in good condition although reasonable wear and tear are allowed.
- 6.3 Customer shall indemnify ALM against all loss or damage to ALM Equipment arising for any reason whatsoever except loss or damage which is caused by reasonable wear and tear.
- 6.4 Customer shall be responsible for any loss, damage or injury to property or to persons caused by the negligence of Customer, its servants or agents in the usage of the ALM Equipment for any reason whatsoever during the period of loan and Customer shall indemnify ALM in respect of all claims, damages and expenses in relation thereto.
- 6.5 If for any reason the ALM Equipment needs to be repaired, Customer shall forthwith return them to ALM's premises and on no account repair or attempt to repair them itself without the prior written consent of ALM.
- 6.6 ALM reserves the right to charge Customer for repair or cleaning due to the Customer's failure to take proper care of ALM Equipment.
- 6.7 ALM Equipment shall at all times remain the sole property of ALM.
- 6.8 Customer shall not purport to sell, encumber, loan or otherwise part with possession or control of ALM Equipment.

- 6.9 Customer shall not refill or allow to be refilled any of ALM's cylinders and shall not use ALM Equipment for any purpose other than that for which they were supplied.
- 6.10 As regards ALM Equipment connected with the supply of liquefied gases, Customer shall not alter or interfere in any way with the ALM Equipment except to adjust the pressure therein by the valves provided for such purpose. Customer shall not be entitled to make any use of such ALM Equipment except to draw of and use through the pipeline the evaporated liquid gases and shall not place or allow to be placed therein anything other than the liquefied gas supplied by ALM.
- 6.11 ALM shall at all reasonable times have access to ALM Equipment maintained by ALM for inspection or to effect repairs. ALM may stop the supply of liquefied gas temporarily after giving notice to the Customer, for the purpose of making leakage tests, hydraulic tests or repairs or replacements or for any other necessary purpose and if necessary may remove ALM Equipment for such purpose. In such case, Customer at its own cost shall supply the necessary labour and handling facilities. If supply of liquefied gas is so interrupted, ALM shall provide an equivalent supply of gas in cylinders to Customer at current price.

## 7 CYLINDERS

- 7.1 ALM cylinders remain the sole property of ALM and are supplied for Customer's sole use only in Peninsular Malaysia unless ALM specifically agrees in writing to allow Customer to use it elsewhere. On termination of the Contract, all ALM cylinders must be returned to ALM.
- 7.2 ALM may supply gas in non-ALM cylinders considered suitable by ALM under special arrangement with Customer. Such supply is subject to cylinder examination, testing and replacement of valve at the Customer's cost when necessary in accordance with ALM procedures and statutory requirements. ALM shall be entitled to dispose of the non-ALM cylinders which Customer fails to self collect or accept delivery of within six months from the date of ALM's receipt or delivery as the case may be. Clause 4.6 above applies.
- 7.3 Customer is responsible for a ALM cylinder from receipt (whether at the delivery point or at ALM's premises) until ALM collects it. Any loss or damage must be reported promptly and Customer must bear any loss or damage to the cylinders.
- 7.4 Customer shall not refill or allow the refilling of ALM cylinders or let them be used otherwise than for storage, transport or use of Gas placed in them by ALM.
- 7.5 All cylinders must be returned with valves closed and in a clean and serviceable condition.
- 7.6 ALM reserves the right to charge Customer for repair, or cleaning due to Customer's failure to take proper care of ALM cylinders. Customer will be charged for a new cylinder if a ALM cylinder is lost or damaged beyond repair.
- 7.7 Payment of a cylinder rental invoice is deemed conclusive (subject to transactions prior to the date of invoice which have not been included in the invoice and to Clause 7.8 below) as to Customer's holding of ALM cylinders as shown at the date of the invoice in question.
- 7.8 If the actual number of cylinders being held by the Customer is found to be more than that shown in the rental invoice, ALM reserves the right to amend its records and charge the Customer the correct rental amount accordingly.
- 7.9 The maximum period during which a cylinder is loaned to a Customer is three months from the date of despatch, thereafter the cylinder must be returned to ALM and ALM reserves the right to impose additional charges towards such additional retention period.
- 7.10 If the ALM cylinders are returned by a third party instead of Customer, ALM shall be entitled to charge Customer a fee accordingly.

## 8 RISK IN GOODS

- 8.1 Any shortage, loss or damage or discrepancy must be notified promptly to ALM and in any case, such notification in writing must be received by ALM no later than 3 working days from delivery. Otherwise, ALM shall not be liable. Damaged Goods and packing must be kept for inspection by ALM or/and its carrier.
- 8.2 In the case of Gas deliveries, ALM's delivery order signed by Customer shall be conclusive as to the amount of liquid or bulk gas supplied or as to the number and type of Gas cylinders delivered and collected.
- 8.3 The risk in Goods shall pass to the Customer upon delivery as set out in Clause 4.7 above.

## 9 RESERVATION OF OWNERSHIP OF GOODS

- 9.1 When applicable, Goods being sold shall remain the property of ALM until the whole of the price has been paid.
- 9.2 In the case of Goods which, after delivery, cannot be distinguished from or become intermingled with other goods of the same nature, ALM shall have the right to nominate at its discretion which part of such goods are its property.

## 10 CONFIDENTIALITY

- 10.1 Both Parties shall keep in confidence, until five (5) years after the termination date of the Contract, the contents of the Contract, including the schedules and appendices and any technical or other information furnished or disclosed under the Contract ("Confidential Information") and will not without the prior written consent of the Disclosing Party disclose to any third party any Confidential Information, unless such information:
- (a) was public knowledge or already known to the Receiving Party at the time of disclosure; or
  - (b) subsequently becomes public knowledge other than by breach of any confidentiality obligation; or
  - (c) subsequently comes lawfully into the possession of the Receiving Party from a third party.
- 10.2 To the extent necessary to implement this provision (but not further or otherwise), the Receiving Party may disclose the Confidential Information to any relevant governmental or other authority or regulatory body, and to any employees or professional advisors of Receiving Party as may be reasonable or desirable, provided that the Receiving Party makes those persons aware of its obligations of confidentiality under this Clause 10 and will use its best endeavours to obtain a binding undertaking as to confidentiality from all such persons.
- 10.3 On termination, all documents and other records (in whatever form) containing Confidential Information supplied to or acquired by Receiving Party will be destroyed by Receiving Party on Disclosing Party's instructions. However, this Clause 10.3 shall not require the Receiving Party to delete Confidential Information stored electronically in archives under back-up procedures applicable to the IT systems of the Receiving Party generally but the Receiving Party shall continue to treat such electronic archives as Confidential Information.

## 11 PATENTS

- 11.1 ALM endeavours not to offer for sale Goods which infringe known and valid patents but shall not be liable to Customer for any and all claims arising from the infringement of any patent or registered design or from any proceedings or threatened proceedings in respect of infringement of any patent or registered design by any use or sale of the Goods.
- 11.2 Where ALM provides advice to Customer in matters of technique or supplies Goods for carrying a technique into effect, the tendering of such advice or the supply of such Goods does not guarantee that such technique is free from patent restrictions. ALM shall not be liable for any and all claims arising from infringement or alleged infringement of patent as a result of the Customer following the advice tendered by ALM or using such Goods.

## 12 REPRESENTATIONS AND WARRANTY

- 12.1 Gas is sold as suitable for general industrial processes only. Determination of the suitability of the Gas supplied under the Contract for any use by Customer is the sole responsibility of Customer and ALM shall have no responsibility in connection with such determination and use. Customer acknowledges that there are hazards associated with the use of the Gas and that it understands such hazards and that it is the responsibility of Customer to warn and protect its employees exposed to such hazards through their use of the Gas.
- 12.2 No warranty is given as to the fitness of Goods for any particular purpose and any implied warranty or condition (whether statutory or otherwise) in that connection is excluded except to the extent that such exclusion is prevented by law. The Customer must satisfy itself that the Goods are suitable for the purpose for which it intends to use them.
- 12.3 No liability shall arise out of the advice or representation given by ALM, its employees or agents unless ALM agrees in writing to provide technical advice in return for a specific fee.
- 12.4 Descriptions, technical specifications, drawings, illustrations or particulars of weight or dimensions given in catalogues or other literature issued by ALM are given in good faith but shall not form part of the Contract unless specifically incorporated.
- 12.5 Saved as aforesaid, all warranties or conditions implied by common law or statute are expressly excluded hereunder except where such warranty or condition cannot by law be so excluded.

## 13 LIMITATION OF LIABILITY

- 13.1 ALM shall be liable to Customer for only direct physical damage to Customer's property (which includes the cost of repairing, reinstating or replacing the property) caused by the negligence or breach of Contract by ALM, its employees or agents up to a limit of
- (i) the lower of MYR100,000 or 20% of the Contract Value per incident; and
  - (ii) the lower of MYR 500,000 or 20% of the Total Contract Value for all incidents during the Contract period.
- For purpose of (i) the "Contract Value" is defined as ALM's invoiced value before taxes in the immediately preceding 12 months prior to the incident under the Contract.

For purpose of (ii) the "Total Contract Value" is defined as ALM's invoiced value before taxes for the entire duration of the Contract.

Beyond the above mentioned amounts, Customer waives any right of recourse against ALM, its employees, agents and insurers and shall obtain an equivalent waiver by its insurers of their rights of subrogation

- 13.2 Each Party covenants to indemnify and to hold the other harmless from and against any and all claims, request, charges or actions of third parties, for personal injury or death of any person whomsoever that is caused by or is attributable to the acts or omissions of the indemnifying Party. If such claims, requests, charges or actions are attributable to the acts or omissions of both ALM and Customer, they shall share liability in the proportion that their acts or omissions contributed to such claims, requests, charges or actions.
- 13.3 Customer's sole and exclusive remedy for ALM's delivery of non-conforming gas or failure to deliver Gas according to the Contract shall be the replacement by ALM of a like quantity of conforming gas at no cost to Customer or the delivery of the right amount of Gas; and the ability to claim for direct physical damage as set out in Clause 13.1.
- 13.4 Customer's sole and exclusive remedy for ALM's delivery of Equipment that is defective or failure to deliver Equipment according to the Contract shall be as provided in Clause 14 below; and the ability to claim for direct physical damage as set out in Clause 13.1 above.
- 13.5 Except as provided in Clauses 13.1, 13.2, 13.3 and 13.4 above, neither ALM, nor its employees or agents shall have any other liability to Customer for any damages, whether direct, indirect,

special, incidental, consequential, production losses, loss of use or economic losses, claims by third party or any other liability express or implied. Accordingly, Customer waives any right of recourse against ALM, its employees, agents and insurers and shall obtain an equivalent waiver by its insurers of their rights of subrogation.

13.6 Customer and ALM agree that the prices charged by ALM reflect the apportionment of liabilities set out in this Clause 13.

#### 14 SALE OF EQUIPMENT AND SERVICES

14.1 ALM undertakes to repair or, at its option, replace the equipment it manufactures or parts thereof which fail (fair wear and tear excepted) as a result of a defect in ALM's materials or workmanship arising within 12 months of the sale of the Equipment to Customer or the execution of Services by ALM as appropriate (or within such other period as may be specified by ALM in the Contract having regard to the nature and properties of the Equipment and/or Services concerned) provided that:

- (a) Customer notifies ALM promptly in writing with details of any alleged defect or malfunction; and
- (b) Customer gives ALM or its agent the opportunity to inspect the Equipment and, if ALM so requests, the Equipment are returned promptly (carriage paid and details of carriage notified in writing to ALM in advance); and
- (c) the Equipment have been properly stored, used and maintained and have not been repaired, tampered with, modified or altered by anyone other than ALM or its agents.

14.2 In the case of Equipment or parts not manufactured by ALM, Customer shall be entitled (subject to compliance with (a), (b) and (c) of Clause 14.1 above) only to the benefit of any guarantee ALM may have from the supplier or manufacturer.

14.3 If the Equipment are found to be defective, ALM undertakes to refund the Customer's reasonable expenses incurred in re-tuning such Equipment to ALM.

14.4 ALM may at its option, elect to refund or forego the Contract price and take back Equipment supplied in full satisfaction of any liability or obligation under Clauses 14.1 and 14.2 above.

#### 15 FORCE MAJEURE

15.1 Neither party shall be liable for any default or delay in the performance of any or all of its obligations (other than payment obligations) when such default or delay is due to any event beyond its control ("Force Majeure Event"). Subject to satisfying the above definition, a Force Majeure Event may include but is not limited to, any of the following events: act of God, casualty or accident, lack or failure of transportation facilities, breakdown or accident of machinery, pipeline or equipment, strike, lock-out, labour dispute, riot, , cyber attacks, public health emergency, communicable disease outbreak, epidemic, pandemic, quarantine measures and other similar measures enacted, war, terrorism, fire, flood, explosion, atmospheric disaster, acts of third parties except for sub-contractors, unless said sub-contractors are affected by a Force Majeure Event as defined herein, impossibility of obtaining electrical power, raw materials, utilities, manpower, equipment or means of transport, failure to obtain or maintain permits or authorisations. For avoidance of doubt, lack of funds or an economic downturn shall not constitute a Force Majeure Event.

15.2 In such a case, the Party affected by a Force Majeure Event shall at once notify the other Party in writing within seven (7) days and take such measures as may reasonably be required to cope with the case as quickly as possible and return to normal operation. Both Parties shall examine in common, if necessary the measures to be taken to limit the effect of the Force Majeure Event.

15.3 A Force Majeure Event shall relieve either Party from their obligations under the Contract for the duration and to the extent of the effect of the Force Majeure Event, except for the payment of any accrued liabilities and the monthly facility fee, if any.

15.4 Upon Customer's request, if ALM can obtain an alternative source of supply for some additional cost and ALM elects to observe its obligations under the Contract from such alternative source, Customer shall pay ALM an amount to cover such additional cost.

#### 16 HARDSHIP

16.1 If ALM's costs of supply of whatever nature, other than of government actions or factored gases, are increased, ALM may require Customer to enter into discussions with a view to agreeing revisions to the Contract that will remove the disadvantage suffered by ALM due to such increased costs

16.2 A Hardship of Supply Event is an event, not constituting a Force Majeure Event, where ALM is unable to supply the Goods due to a shortage of raw materials and ALM expects such shortage to last for a period exceeding three (3) days.

16.3 Notwithstanding ALM's remedy under Clause 16.1, if a Hardship of Supply Event occurs or is expected to occur, ALM will:

- (a) notify the Customer after assessing alternative supply options in relation to the Goods; and
- (b) propose the fees applicable to supply during the Hardship of Supply Event ("Supplementary Fee") to reflect the additional sourcing, distribution and transportation cost incurred by ALM to supply the Goods.

#### 17 RESPONSIBILITY FOR SAFETY AND LEGAL OBLIGATIONS

17.1 Customer shall be responsible for obtaining necessary consents and for complying with all legal obligations including the Occupational Safety & Health Act, in connection with any Goods supplied, ALM Equipment provided to the Customer or work done on Customer's site.

Customer shall indemnify ALM against all claims arising from non-compliance with any said obligations and against all costs and expenses arising from any such claims under this Clause 17.1.

17.2 It is Customer's responsibility to ensure that Gas used for human inhalation and medical purposes if administered only through appropriate equipment and by qualified personnel.

17.3 Customer is responsible for any risks to health or safety arising from Goods and ALM Equipment in its possession. Attention is drawn to the fact that statutory regulations and recognised codes of safe practice exist covering the storage, handling, conveyance and use of most Goods supplied by ALM. Customer must ensure that persons handling the Goods and ALM Equipment receive adequate training and these persons understand all precautions, including but not limited to the "Safe Cylinder Handling Procedures" issued by ALM. .

#### 18 TERMINATION OF SUPPLY AND REPOSSESSION OF ALM PROPERTY

18.1 ALM may stop the supply of Goods and/or Services, or at its option, terminate the Contract immediately upon giving written notice to Customer without prejudice to any then accrued rights of either party:

- (a) If Customer commits any act of bankruptcy or, being a company, has a receiver appointed or goes into liquidation (except for the purpose of reconstruction or amalgamation); or
- (b) If Customer commits any material breach of any provision of the Contract (including non-payment of sums due) or these General Conditions and fails to rectify such breach within 30 days of notification.

18.2 If ALM ceases to supply Goods to Customer for the reasons in Clause 18.1, ALM may on demand to Customer retake possession of ALM Equipment (including, where relevant, any Gas in ALM's cylinders or other equipment).

18.3 To enable ALM to repossess ALM Equipment, Customer shall allow ALM full and free access to ALM Equipment and shall be responsible for and indemnify ALM against all actions, suits, proceedings, claims, demands and costs occurring directly or indirectly as a result of ALM not having such full and free access. ALM shall be entitled to sever the ALM Equipment (if necessary) from any other property, notwithstanding that it may have become a fixture thereto. Upon repossession of the ALM Equipment, the Customer shall reimburse ALM for the outstanding monthly facility charges due from the date of termination till the end of the Contract period, if applicable, and for the cost of removal.

## 19 ASSIGNMENT

19.1 Neither Party shall have the right to assign this Contract without the other Party's prior written consent, which consent shall not be unreasonably withheld, save that ALM may assign freely part or all of its rights and obligations under this Contract to any of its Affiliated Company and/or assign all or part of the receivables held by ALM on Customer hereunder to any bank, insurance company or other financial institutions.

## 20 DATA PROTECTION

20.1 For the purposes of this clause, the terms used have the meaning set out in the applicable regulations on personal data processing, including:

- (a) The Personal Data Protection Act 2010, and
- (b) Any other future applicable legislation which might complete, supplement or replace them.

(hereinafter together "Data Protection Regulation")

20.2 Parties undertake to comply with their respective obligations under the Data Protection Regulation. Each Party guarantees the other Party that it complies with the Data Protection Regulation, in particular in terms of personal data security and confidentiality. ALM's Data Privacy Policy can be found at <http://www.airliquide.com/legal-notice>

20.3 Parties undertake to implement the appropriate technical and organizational measures to protect the personal data against any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed, taking into account the nature of processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.

20.4 To perform the provision of goods or services herein, each Party may collect and process personal data relating to the other Party's employees and/or clients, or any other categories of data subjects relevant for the provision of goods or services in accordance with the Contract.

20.5 Each Party acknowledges acting as a controller concerning the collection and processing of such personal data carried out for the provision of goods or services as provided in the Contract. Each Party undertakes therefore to comply with all the requirements of the Data Protection Regulation which are imposed on the controller.

20.6 Parties undertake to comply with this article throughout the term of the Contract and beyond when the obligations set out in this article shall survive upon termination of this Contract according to Data Protection Regulation and notably the obligation of security and confidentiality of the personal data.

20.7 Customer accepts and confirms that it is solely liable for any of Customer's breaches, howsoever caused under this Clause 20 and undertakes to indemnify and hold harmless ALM, its employees and contractors or from any damages, costs, claims and liabilities including legal costs which may be suffered or incurred by ALM in respect of any event by reason of any breach by Customer of any provisions of this Clause.

## 21 CODES OF CONDUCT & ANTI-CORRUPTION

21.1 It is of paramount importance to ALM that its customers and its customers' employees adhere to the principles stated ALM's Code of Conduct, available at the link: [https://www.airliquide.com/sites/airliquide.com/files/2018/06/22/principles-action-2016\\_0.pdf](https://www.airliquide.com/sites/airliquide.com/files/2018/06/22/principles-action-2016_0.pdf). Customer shall adhere to these principles when carrying out any activity in connection with this Contract.

21.2 Customer also agrees to comply with the laws and regulations applicable to the execution of its contractual obligations with ALM, in particular as concerns anti-corruption, and to also adhere to the rules of behavior provided in the Air Liquide Group's anti-corruption code of conduct, available at the link: <https://www.airliquide.com/sites/airliquide.com/files/2018/06/22/code-conduct-anti-corruption-2016.pdf>. It certifies that it has implemented and will continue to implement policies and procedures to foster compliance with the anti-corruption and anti-bribery laws and regulations applicable to it.

## 22 TRADE COMPLIANCE

22.1 The Parties agree that all sale of Goods and/or Services hereunder shall at all times comply with applicable export control, customs and foreign trade laws and regulations and any amendments thereto. In particular, the Customer shall observe and respect any restrictions, prohibition or export license requirement applicable to the Goods and/or Services.

22.2 The Customer shall promptly inform in writing ALM of any information and data, and any modification thereto, required by ALM to comply with the export control laws and regulations applicable in the countries of export and import, as well as for re-export, and concerning the Products. In particular, the Customer shall inform ALM on final destination, end-user and end-use of the Products.

22.3 In the event of a breach of the obligations in this Clause, the Customer shall be liable to ALM irrespective of any limitation of liability provisions that may have been agreed in this Agreement and shall indemnify and hold ALM harmless from any claims and losses resulting from the Customer's non-compliance with this Clause.

## 23 GENERAL

23.1 If by arrangement with Customer, the Goods and/or Services are supplied to any person who is not a party to the Contract, Customer shall procure that such person agrees to be bound by these General Conditions as though a party to the Contract, and Customer shall indemnify ALM against any consequences of Customer failing to do so, including any claim made by such person.

23.2 Customer shall indemnify ALM against any liability of ALM to third parties which would not arise but for the breach of Contract by Customer.

23.3 In making these General Conditions, ALM does so both for itself and for and on behalf of every employee, servant or agent of ALM and the existence of a Contract shall be conclusive evidence of the agreement of Customer that in the event of any loss or damage of any nature suffered by Customer by reason of the negligence or default of any employee, servant or agent of ALM, any exemption of liability of ALM given by these General Conditions shall extend to every such employee, servant or agent.

23.4 Any failure of ALM to insist upon strict performance by the Customer of any terms or these General Conditions contained herein shall not be taken to be a waiver thereof or of any rights of ALM in relation thereto AND IN ANY EVENT shall not be taken to be a waiver of the same terms and conditions on any subsequent occasion.

23.5 If ALM's cost of supply is increased, ALM may require Customer to enter into discussions with a view to agreeing revisions to the Contract that will remove the disadvantage suffered by ALM due to such increased costs.

23.6 Notices to ALM shall be hand delivered, sent via electronic mail or transmitted by pre-paid registered post to ALM's address stated on the Contract. No notice to ALM shall be taken to have been given until it is actually received by ALM.

23.7 In the event of any dispute, claim, question or disagreement arising out of or relating to these General Conditions and the Contract, including the validity and interpretation of these General Conditions and the Contract and any non-contractual disputes and claims which cannot be settled amicably by the parties (collectively referred to as "Dispute"), ALM may elect to resolve the Dispute either through arbitration or exclusively in the Malaysian Courts. ALM may make the election on its own accord by written notice to Customer or within thirty (30) days of the receipt of Customer's written notice stating the specific Dispute to be resolved. Should ALM fail to make the election within thirty (30) days of the receipt of the written notice by Customer, the Dispute shall be resolved by reference to arbitration and shall be exclusively referred to and finally resolved by arbitration in Malaysia in accordance with the Arbitration Rules of the Asian International Arbitration Centre ("AIAC") for the time being in force, which rules

are deemed to be incorporated by reference in this Clause 23.7. The Tribunal shall consist of one arbitrator and the language of the arbitration shall be English. The arbitration award shall be final and binding.

- 23.8 The headings in these General Conditions are for convenience of reference only and shall not affect the construction or interpretation thereof.
- 23.9 These General Conditions and any Contract subject to them shall be governed by and construed in accordance with the Laws of Malaysia. The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Contract.
- 23.10 This Agreement contains the entire agreement between the Parties hereto and supersedes all previous writings, understandings, and parts of letters of intent or agreements with reference to the subject matter hereof.