

# LINDE

## General Conditions of Purchase

### 1. DEFINITIONS:

For the purpose of these General Conditions of Purchase, the following capitalised terms shall have the following meanings:

- 1.1. "Affiliate" means any entity in which Linde A.G. has a direct or indirect equity interest.
- 1.2. "Linde" means the subsidiary company or Affiliate of Linde AG. , as named or otherwise referenced in the Order.
- 1.3. "Linde Property" means materials, equipment, tools or other property belonging to Linde or for which Linde is responsible.
- 1.4. "Conditions" mean these General Conditions of Purchase.
- 1.5. "Contract" means the terms and conditions for the supply of Goods and/or Services to Linde as set out in the Order for such Goods or Services and the Conditions. If there is any inconsistency between the terms of the Order and those in the Conditions, the terms of the Order shall prevail.
- 1.6. "Goods" means the goods or materials to be supplied by the Supplier to Linde under the terms of the Contract.
- 1.7. "Order" means a request (whether in written, typed or electronic form) on a purchase order issued by Linde to the Supplier to supply the Goods or Services, which shall be deemed to always include the Conditions, and any drawings, Specifications, and other attachments thereto.
- 1.8. "Price" means the price for the Goods and/or Services as stated on the Order.
- 1.9. "Purchaser" shall mean Linde acting on its own behalf, or an agent for and on behalf of Linde as principal.
- 1.10. "Services" means services of any description provided by the Supplier to Linde pursuant to a Contract.
- 1.11. "Specifications" means the specifications for the Goods and/or Services as set out or incorporated by reference in the Order; or any other specifications agreed in writing between Linde and the Supplier from time to time.
- 1.12. "Supplier" means the entity or person to whom an Order is addressed.

### 2. APPLICABILITY AND ACCEPTANCE OF CONDITIONS

- 2.1. These Conditions shall apply to all Orders, all schedules to such Orders and all supplementary dealings and direct feed line orders relating to such Orders. An Order is an offer by Linde to purchase the Goods and/or Services identified therein and a Contract shall be formed on acceptance of the Order by the Supplier.
- 2.2. Any of the following acts shall constitute conclusive acceptance by the Supplier of the Order and of the Conditions:
  - 2.2.1. signing and returning to Linde a copy of the Order or of any acknowledgement form in respect of the Order;
  - 2.2.2. any electronic acceptance or confirmation or any other typed or written acceptance of the Order by the Supplier;
  - 2.2.3. delivery of any Goods or commencement of performance of the Order;
  - 2.2.4. informing Linde in any manner of delivery of any Goods or commencement of performance of the Order.
- 2.3. Unless otherwise agreed in writing by Linde, no other terms or conditions, (including, without limitation, any terms or conditions endorsed upon, delivered with, or contained in any invoice, acceptance or acknowledgement of Order or other document delivered by the Supplier to Linde) nor any previous correspondence shall form part of or amend any Order, nor be deemed to constitute a counter offer by the Supplier to Linde. To the extent that any Order is deemed in any way to be an acceptance of

a quotation or other offer by Supplier, any such acceptance by Linde is deemed to be expressly conditional upon the acceptance by the Supplier of the Conditions.

- 2.4. Should Linde sign or acknowledge receipt of any document received from the Supplier which contains any terms that are at variance with these Conditions, such signature or acknowledgement shall serve only as an acknowledgement of receipt of such document and not as any acceptance of the terms contained in such document and these Conditions shall always prevail.

### **3. ASSIGNMENT AND CHANGE OF CONTROL**

- 3.1. The Contract is made with the Supplier on the basis that the Goods will be supplied and/or the Services performed by the Supplier only. No sub-contracting or assignment (by operation of law or otherwise) shall be made without the written consent of Linde and on such conditions as Linde may require. If any subcontracting or assignment is permitted by Linde, the Supplier shall always ensure that such subcontractor or assignee agrees to be bound by the Conditions as though a party to the Contract and the Supplier shall indemnify Linde against any consequences of the Supplier's failing to do so.
- 3.2. Linde shall be entitled, at any time, by notice in writing to Supplier, to assign the whole or any part of its rights and obligations under the Contract to any Affiliate or to any successor in title to the whole or part of that part of Linde's business which relates to the goods or Services.
- 3.3. The Supplier agrees to notify Linde, in writing within 7 days, of any change of ownership of the Supplier's business or, if the Supplier is a company, of all relevant details and information of any transaction where the majority shareholding of the Supplier is affected, and of any other change to the Supplier's legal identity, structure or nature.

### **4. DELIVERY**

- 4.1. The Supplier shall deliver the Goods during regular business hours (as applicable at the place of delivery) and in accordance with the prices and delivery schedules stated in the Order. If no delivery dates are stated, the Supplier shall deliver the Goods as soon as is practicable and the Supplier shall inform Linde in writing in advance of the delivery date. The Goods shall be delivered by the Supplier in accordance with Incoterms 2000 DDP to the named destination specified in the Order and in accordance with the Contract.
- 4.2. Time is of the essence for performance of the Contract by the Supplier, and any late, failed, defective or inadequate delivery of the Goods or Services shall be considered a material breach of the Contract, entitling Linde to terminate the Contract and claim for all losses and damages which Linde suffers due to such breach by the Supplier.
- 4.3. In respect of each delivery of Goods, it is the responsibility of the Supplier to ensure that all legislation and regulations applicable to the transportation and delivery of such Goods is complied with at all times, and the Supplier shall indemnify Linde against any loss suffered by Linde (including detention and confiscation of the Goods) arising from transportation or delivery of the Goods in breach of any legislation or regulations.
- 4.4. Delivery dockets shall accompany all Goods being delivered and shall include the following information at a minimum and also such information as is required by Linde: Order number, description of Goods and name of Supplier, unit of measure specifying volume, quantity or number and delivery point for the Goods.
- 4.5. All Goods shall be packaged securely in such a manner so as to prevent damage during loading, transportation and off-loading. In circumstances where Linde issues packaging specifications, then the Supplier will comply with such specifications. Linde shall be entitled to recover from the Supplier all loss and damage which Linde suffers due to the Supplier's failure to comply with the provisions of this Condition 4.5.
- 4.6. If, for any reason, Linde is unable to accept delivery of the Goods at the time specified in the Order, the Supplier shall, by prior agreement with Linde, store the Goods and shall maintain them in merchantable

condition. Subject to prior written agreement, Linde shall reimburse the Supplier for the reasonable costs of such storage actually incurred.

## **5. OWNERSHIP AND RISK**

- 5.1. The Supplier shall be fully responsible for and will maintain any Linde Property, including the safe and secure storage thereof, whilst in the Supplier's possession for any purpose connected with the Contract. If any loss or damage occurs (normal wear and tear excepted), the Supplier will promptly replace or repair as required by Linde, and at the Suppliers own cost, any Linde Property lost or damaged by the Supplier.
- 5.2. Upon request by Linde, the Supplier will immediately return any Linde Property in the possession of the Supplier. In the event of Supplier's failure to return the Linde Property, Linde may elect to purchase a replacement for the applicable item of Linde Property and recover from Supplier the full cost of such replacement.
- 5.3. Title to all or any part of the Goods shall pass to Linde on the earlier of (i) payment for such Goods or part thereof; and (ii) delivery of such Goods in accordance with Condition 4.1. Where title to all or any part of the Goods has passed to Linde but the Goods remain in possession of the Supplier, the Supplier shall clearly label the Goods as the property of Linde and store the Goods separately from all other goods.
- 5.4. Risk in the Goods shall remain with the Supplier until such time as the Goods have been physically received by Linde and signed for on behalf of Linde, although in circumstances where the Goods are not in a satisfactory condition either at the time of receipt by Linde or subsequently, risk in the full and actual Goods shall remain with the Supplier.

## **6. INSPECTION, REJECTION AND QUALITY**

- 6.1. The Supplier grants Linde the right to inspect the Goods at any time prior to delivery at the Supplier's premises or elsewhere. Inspection by Linde of Goods shall not relieve the Supplier of responsibility or liability and shall not imply acceptance thereof by Linde. Linde's right of inspection prior to delivery shall be without prejudice to Linde's right to reject Goods after delivery.
- 6.2. All Goods shall be supplied in accordance with the Specification and subject (but without obligation on Linde) to inspection and testing by Linde on delivery. At any time following delivery and without prejudice to Linde's other rights and remedies under the Contract or otherwise, Linde shall be entitled by written notice to the Supplier to reject the whole or part of any consignment of Goods which have not been supplied fully in accordance with the Contract.
- 6.3. Without prejudice to Condition 6.1 or to any other rights that Linde may have under the Contract or otherwise, if the Supplier fails to deliver the Goods in accordance with the terms of the Contract or by the specified date of delivery or Linde rejects the Goods pursuant to Condition 6.2, then Linde shall be entitled, at its option, to:
  - 6.3.1. refuse the Goods and, if applicable, require the Supplier to remove, repair or replace such Goods at the Supplier's cost as expeditiously as reasonably practicable, which Goods shall be then immediately held at the risk of the Supplier;
  - 6.3.2. suspend the contract while Linde assesses Supplier's non-performance, and considers whether to claim damages, terminate the contract, or exercise other remedies, and during such suspension refuse to accept any further delivery of Goods which the Supplier attempts to make;
  - 6.3.3. obtain identical or similar goods from an alternative supplier and be reimbursed on demand by the Supplier for all additional costs and expenses reasonably incurred by Linde; and/or
  - 6.3.4. terminate the Contract forthwith and refuse to accept any further consignment or delivery of Goods under the Contract.
- 6.4. Without prejudice to Linde's rights to damages or to any other remedies under the Contract or at law, the Supplier shall on demand refund Linde the purchase price, if paid, and all other costs and disbursements incurred by Linde in respect of, or as a result of, any Goods and/or Services being validly refused or rejected.

- 6.5. At all times that the Contract is in effect, Linde reserves the right to call for certificates of raw materials and test certificates for materials and equipment used in the sourcing and manufacture of the Goods and the Supplier shall provide such certificates to Linde within five business days of any such request from Linde.
- 6.6. The Supplier shall permit Linde's staff or nominees to carry out such inspections of any Services as Linde deems to be necessary. Such inspections shall not relieve the Supplier of responsibility or liability for such Services and shall not imply acceptance thereof by Linde.
- 6.7. Without prejudice to any other rights Linde may have under the Contract or otherwise, if the Supplier fails to perform the Services in accordance with the terms of the Contract or by the specified date or Linde rejects any improperly performed Services, then Linde shall be entitled, in its absolute discretion to:
  - 6.7.1. require the Supplier to re-perform the Services, in either case free of charge and as soon as is reasonably practicable;
  - 6.7.2. obtain services from a third party and be reimbursed by the Supplier for all additional reasonable costs and expenses thereby incurred; and/or
  - 6.7.3. terminate the Contract forthwith and refuse to accept any further performance of Services under the Contract.

## **7. WARRANTIES AND OBLIGATIONS OF SUPPLIER**

- 7.1. The Supplier warrants that the Goods and any parts or materials used in the manufacture or performance of any work related to the Goods shall:
  - 7.1.1. be fit for their purpose or any special purpose notified in writing by Linde to the Supplier;
  - 7.1.2. conform to the Specifications in all respects and to any samples or drawings where such have been provided;
  - 7.1.3. be new and unused, of sound materials and workmanship and free from any defects (latent or otherwise);
  - 7.1.4. conform to all applicable international and local laws and regulations affecting the design, manufacture, sale, packaging, labeling, safety standards and use of the Goods, which are in force and effect on the date of delivery;
  - 7.1.5. be guaranteed to be free from defects for 12 months from the time of receipt of the relevant Goods by Linde unless otherwise agreed between the Supplier and Linde;
  - 7.1.6. be accompanied by all appropriate information, warnings, instructions and documentation in relation to the use, storing, operation, consuming, transportation and disposal of such Goods.
- 7.2. In addition, the Supplier shall:
  - 7.2.1. specify full details regarding all immediate and long term potential hazards or dangers relating to the Goods including but not limited to, toxicity, flammability, harmful effect due to inhalation or direct contact and whether due to direct or indirect use thereof;
  - 7.2.2. furnish full details relating to the most appropriate safety precautions to be taken in respect of the Goods or the use and handling thereof;
  - 7.2.3. appropriately and prominently label all packages and receptacles containing dangerous, toxic or otherwise harmful Goods in order to protect those who handle them or who are exposed to them.
- 7.3. The Supplier warrants that all Services will be performed (i) in a safe and workmanlike manner in accordance with best practice and with all reasonable skill, care and diligence, (ii) in full accordance with all applicable international and local safety laws and regulations and (iii) so as to ensure that the completed works, the subject of the Services are free from defects in materials and workmanship and are fit for the intended purpose.

- 7.4. The Supplier agrees to the passing on by way of assignment or otherwise of the benefit of any warranty or guarantee relating to the Goods to which Linde is entitled under the Conditions to any subsequent user or purchaser of the Goods and the Supplier agrees to enter into such documents as may be necessary to achieve this.

## **8. PRICE AND PAYMENT**

- 8.1. The price(s) for the Goods and/or Services shall be specified in the Order and shall remain fixed for the term of the Contract.
- 8.2. Unless otherwise stated in the Contract, the price payable for the Goods and/or Services shall be:
- 8.2.1. exclusive of value added tax ("VAT") or other sales or service tax; and
  - 8.2.2. inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods and all duties, licenses, permits and taxes (other than VAT or other sales or service tax) as may be payable in respect of the Goods and/or Services from time to time.
- 8.3. If the Contract states that "VAT" or any other sales or service tax is payable in respect of any Goods or Services, such tax shall only be payable by Linde upon receipt of a valid VAT or sales or service tax invoice.
- 8.4. Unless otherwise specified in the Order, and subject to the Supplier complying with its obligations under the terms of the Order, Linde shall make payment for the Goods and/or the Services to the Supplier within 5 working days after the end of the month following the month of receipt of Supplier's duly completed and accurate invoice (including the official Order number) which invoice shall only be issued by the Supplier following delivery of the relevant Goods to Linde or following completion of the relevant Services, and acceptance of the Goods or Services by Linde.
- 8.5. Linde may withhold payments of any disputed or insufficiently documented amounts included in any invoice. Linde is entitled to deduct from or set-off against any money due or which becomes due from Linde to Supplier, any sum(s) due to Linde or to any subsidiary or affiliated company of Linde from the Supplier under the Contract or otherwise or to recover such sums as a debt.
- 8.6. Any application for price adjustments by the Supplier must be made in writing to Linde and must give not less than 30 days notice of such proposed price adjustment and shall also be supported by such documentary evidence as may be required by Linde. No price adjustments shall be effective until accepted in writing by Linde acting in its absolute discretion.
- 8.7. Payment of an invoice by Linde shall not constitute acceptance of Goods and/or the Services covered by the invoice and shall be without prejudice to any and all claims Linde may have against the Supplier in connection with the Order

## **9. INDEMNITY AND INSURANCE**

- 9.1. The Supplier shall indemnify and hold Linde harmless from and against any liability, loss, costs (including legal fees), damage or injury in consequence of (i) any defect in design, parts or materials or workmanship of Goods and/or deficiency in Services or (ii) any breach by the Supplier of the Contract (including any late delivery or non-delivery of Goods or performance of the Services) or (iii) any negligence, willful default or wrongful act or omission of the Supplier, its employees, sub-contractors or agents, save to the extent that any such liability, loss, cost, damage or injury is caused by the negligence of Linde.
- 9.2. The Supplier agrees to indemnify Linde from any and all losses sustained by Linde by reason of any third party claim for injury, death or other damage caused by breach of the warranties within Condition 7.1 above or by defects in the Goods and/or in the quality of the Services (including any product recall costs incurred by Linde as a consequence of Linde receiving defective Goods).
- 9.3. The Supplier shall arrange and maintain, at its own cost, all necessary insurance on terms satisfactory to Linde. Evidence of such insurance shall be produced by the Supplier to Linde upon request and in particular, the minimum insurance cover is:

- 9.3.1. Public liability cover of US\$ 5,000,000 for any one incident.
  - 9.3.2. Product liability cover of US\$ 5,000,000 for any one incident.
  - 9.3.3. Employer's liability cover of US\$ 10,000,000.
- 9.4. Any limitation monetary or otherwise in such policy shall not be construed as a limitation on the Suppliers liability and the Supplier shall notwithstanding such limitation, remain liable in full for the matters and to the extent not covered by the policy.

## **10. BREACH AND TERMINATION**

- 10.1. Without prejudice to the accrued rights of Linde prior to the date of termination, Linde shall be entitled to terminate the Contract immediately upon notice to the Supplier if:
- 10.1.1. the Supplier has committed or is committing a material breach of a term of the Contract and if (the default being one which is capable of being remedied) the Supplier fails to remedy such default within 7 (seven) days of receipt of a written notice from Linde requiring the Supplier do so; or
  - 10.1.2. if there is any breach of warranty by the Supplier;
  - 10.1.3. if the Supplier has a receiver, administrator, administrative receiver or manager appointed over the whole or any part of its assets, becomes insolvent, or commits any act of bankruptcy or is wound up or goes into liquidation or if the Supplier shall suffer any analogous proceedings under local law.
- 10.2. In any circumstances contemplated by this Condition 10, Linde may recover from the Supplier any Linde Property in the possession of the Supplier and all Goods associated with the relevant Order and, all losses and expenses incurred by Linde in consequence of such default, breach or failure including losses and expenses incurred as a result of Linde having to make alternative arrangements for the execution of the Order or the supply of the Goods and/or the performance of the Services in question.

## **11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

- 11.1. All intellectual property rights including patents, trade marks, service marks, design rights (whether registered or unregistered), copyright (including any future copyright) and any application for any of the foregoing, arising from work conducted or prepared by the Supplier for Linde or in any tools or equipment supplied by or funded by Linde shall belong to Linde and the Supplier agrees to do all such things as may be reasonably required to secure the granting of such rights to Linde.
- 11.2. Intellectual property in all goods and materials supplied to the Supplier by or on behalf of Linde, or prepared manufactured or procured by the Supplier specifically for or in connection with the performance of the Order for Linde shall belong to Linde.
- 11.3. All information and documents provided to the Supplier by Linde, or otherwise acquired by the Supplier relating to Linde's business, or created or produced by or on behalf of the Supplier specifically for or in connection with the performance of the Order for Linde shall be kept confidential by the Supplier and shall not be used or caused to be used by the Supplier other than for the purposes of the Order.
- 11.4. The provisions of Condition 11.3 shall continue in force notwithstanding termination, however caused, or completion, of the Contract although such provisions shall not apply to any information or document in the public domain or coming into the public domain other than through the default of the Supplier.
- 11.5. The Supplier warrants that the sale, possession, resale or use of the Goods and/or the performance of the Services to be supplied do not infringe any third party intellectual property rights and undertakes to indemnify and hold harmless Linde, its employees, officers, agents, customers and successors and assigns ("the Indemnified Parties") against all royalties or licence fees and against all damages, losses or costs suffered by the Indemnified Parties or for which the Indemnified Parties may be liable in respect of any breach of this warranty and the Supplier will give the Indemnified Parties all such assistance as is reasonably required in defending any such infringement claim. If it should come to Linde's knowledge

that a claim may arise under this warranty, then Linde reserves the right to terminate the Contract immediately and without any liability towards the Supplier.

- 11.6. The Supplier shall make no reference to Linde in its advertising, literature or correspondence without Linde's prior written agreement. Nothing in this Order shall entitle the Supplier to use any name, trademark or logo of Linde.

## **12. CODE OF CONDUCT AND ETHICAL PURCHASING POLICY**

- 12.1. The Supplier acknowledges that Linde has a code of ethics (the "Code of Conduct") and operates an ethical purchasing policy (the "ethical purchasing policy"), covering areas such as labour, safety and the environment. Copies of the ethical purchasing policy and the Code of Conduct may be viewed on [www.boc.com/suppliers](http://www.boc.com/suppliers) and are available from Linde on request. Linde expects the Supplier to maintain a consistently high standard of integrity in all its business relationships with Linde and to foster the highest possible standards of professional competence in all its activities. To this end, in supplying Goods to Linde and/or in performing any Services, the Supplier agrees that it shall not knowingly take any action which violates the Code of Conduct or the ethical purchasing policy. Further, the Supplier specifically acknowledges that no employee of Linde is authorised to propose to the Supplier or approve conduct which is inconsistent with the Code of Conduct.
- 12.2. Linde shall have the right to terminate its business relationship and any associated agreements with the Supplier if the Supplier is (or Linde reasonably believes the Supplier is) in material breach of the Code of Conduct and, in case of any breaches which are capable of remedy, the Supplier fails to remedy such breach, after written notification by Linde of such breach.
- 12.3. The Supplier and its agents, employees and contractors shall strictly comply at all times with the Code of Conduct, the ethical purchasing policy and with all other national and local laws and regulations and all rules, regulations, standards and instructions of whatever nature of Linde applicable at any premises where the Goods are delivered and/or where the Services are performed.

## **13. GOVERNING LAW AND DISPUTE RESOLUTION**

- 13.1. The governing law and jurisdiction relating to this Contract shall be as set forth in Appendix A based on the country of Linde's incorporation.
- 13.2. Supplier and Linde shall first attempt to settle any disputes (including any disputed claim) in connection with the Contract amicably between the parties. If the parties are unable to resolve such dispute amicably within 30 days of the first notice of such dispute, either party may, to the exclusion of the Courts, refer the dispute for arbitration by the applicable Arbitration body specified in Appendix A. However, if the amount in dispute is less than US\$ 250,000 (or equivalent in local currency) or if Linde has a claim for recovery of undisputed debts or an application for injunction, Linde may elect that the dispute be brought before the applicable Court of law set forth in Appendix A.
- 13.3. Arbitration shall be conducted by a sole arbitrator if the parties agree upon the same within 30 days of the Arbitration body accepting the referral, failing which the dispute shall be referred to three arbitrators, each party to appoint one arbitrator and the two appointed arbitrators shall appoint the third arbitrator who shall act as the presiding arbitrator. The language of the arbitration proceedings and the arbitral award shall be in English. The arbitration tribunal shall state reasons for its decision in writing and the arbitral award shall be final and binding upon the parties and may be enforced by any Court or any competent authority. All costs of arbitration shall be shared equally between the Parties unless otherwise directed by the arbitral award.
- 13.4. During the period of submission to arbitration and thereafter until the granting of the arbitral award, the Supplier and Linde shall, except in the event of expiration or termination of the Contract, continue to perform all their respective obligations under the Contract without prejudice to a final adjustment in accordance with said award. The provisions contained in this Condition 13 shall survive the termination and/or expiration of the Contract

#### 14. GENERAL

- 14.1. If the Supplier is required to operate in premises owned by Linde, then the Supplier agrees at its own expense to comply with all Linde's site safety rules and procedures. These include but are not limited to using appropriate personal protective equipment, attending site induction training, and removing all rubbish, debris, surplus materials and temporary erections and leaving the site tidy. Materials used or to be used are at the Supplier's risk until completion of the Order.
- 14.2. No failure or delay on the part of Linde to exercise any power, right or remedy under the Order shall operate as a waiver thereof nor shall any single or partial exercise by Linde of any power, right or remedy preclude any other or further exercise thereof or the exercise of any other power, right or remedy. No waiver by Linde of any breach of any of the terms and conditions of the Order shall be construed as a waiver of any subsequent breach whether of the same or of any other term or condition hereof. No waiver by Linde shall be validly made unless made in writing.
- 14.3. The Contract constitutes the entire agreement between Linde and the Supplier relating to the sale and purchase of Goods and/or Services. No amendment to or a variation of the Order shall be effective unless it is expressly agreed to in writing by Linde.
- 14.4. Linde reserves the right at any time to cancel the Order in whole or in part or to make any changes. Unless any cancellation or changes arise from the Supplier's default, Linde shall pay to the Supplier fair and reasonable compensation for the Supplier's work-in-progress at the time of change or termination but such compensation shall never include loss of anticipated profits or any economic or consequential loss
- 14.5. Should Linde be prevented from or delayed in meeting its contractual obligations due to any cause beyond Linde's reasonable control then Linde shall as soon as possible notify the Supplier of the circumstances and such contract obligations shall be suspended during the period Linde is affected by such cause. Should such circumstances endure for more than 30 days Linde shall be entitled to terminate the Order, without payment to the Supplier of any damages whatsoever although Linde shall pay such sums as are properly due to the Supplier to the extent that the relevant Order was fulfilled.
- 14.6. Save as expressly provided, no provisions of the Contract shall be enforceable by a third party (being any person other than Linde, the Supplier and their permitted assignees and successors). In the event that any term or provision of the Contract is declared void or unenforceable by any court having competent jurisdiction under the Contract, the remainder of the provisions of the Contract shall remain in full force and effect to the fullest extent permitted by applicable law.
- 14.7. The Contract is executed in English and all correspondence between the Supplier and Linde shall be in English. The English language shall be the governing language despite translation into any other language.

#### APPENDIX A

If governing law permits and Linde so chooses, then the arbitration shall be conducted under the rules and auspices of the Singapore International Arbitration Centre and the venue of the arbitration shall be at Singapore. Otherwise, the terms under which such arbitration will be conducted and the venue of the arbitration shall be as set forth below, by selecting the applicable country of Linde's nationality.

#### **BANGLADESH**

- (a) The Contract shall be governed by the law of Bangladesh
- (b) For legal proceedings taken with respect to this Contract, Supplier and Linde submit to the non exclusive jurisdiction of the Courts at Dhaka.
- (c) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted in accordance with the Bangladesh law governing arbitration applicable at the relevant time, and the venue of the arbitration shall be at Dhaka.

#### **CHINA**

- (a) The Contract shall be governed by the law of the People's Republic of China.
- (b) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted by the China International Economic and Trade Arbitration Commission ("CIETAC") in Shanghai in accordance with the CIETAC arbitration rules in effect at the time of application for arbitration.

#### **INDIA**

- (a) The Contract shall be governed by the law of India
- (b) For legal proceedings taken with respect to this Contract, Supplier and Linde submit to the non exclusive jurisdiction of the Courts at Kolkata.
- (c) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted in accordance with the Arbitration and Conciliation Act 1996 or the Indian law governing arbitration applicable at the relevant time, and the venue of the arbitration shall be at Kolkata.

#### **INDONESIA**

- (a) The Contract shall be governed by the law of the Republic of Indonesia; provided that the Supplier and Linde agree to waive Article 1266 of the Indonesian Civil Code to the extent that a judicial decision may be required to terminate the Contract and waive Article 1267 of the Indonesian Civil Code to the extent that a judicial decision may be required to obtain an award of damages under the Contract.
- (b) For legal proceedings taken with respect to this Contract, Supplier and Linde submit to the non exclusive jurisdiction of the Courts at Jakarta.
- (c) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted in accordance with the rules of arbitration of the Indonesian National Arbitration Board applicable at the time of submission of the dispute to arbitration, and the venue of the arbitration shall be at Jakarta. The language to be used in the arbitral proceedings shall be English.
- (d) The Supplier and Linde irrevocably waive the applicability of Articles 48 (1) and 73 paragraph b of Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution so that the mandate of a board of arbitration duly constituted in accordance with the terms of the Contract shall remain in effect until a final arbitration award has been issued by the arbitration board.

#### **KOREA**

- (a) This Contract shall be governed by, and construed and interpreted in accordance with the laws of Korea.
- (b) For legal proceedings taken with respect to this Contract, Supplier and Linde submit to the non exclusive jurisdiction of the Seoul District Court.
- (c) Any disputes, controversies, or differences which may arise between the Parties, out of or in relation to or in connection with this Contract, or for the breach thereof, which cannot be amicably resolved by the Parties as provided in the Contract shall be finally settled by arbitration to be conducted in Seoul, Korea, in

accordance with Arbitration Rules of the Korean Commercial Arbitration Board and under the Laws of Korea. The award rendered by the arbitrator shall be final and binding upon both Parties concerned. The language to be used in the arbitral proceedings shall be English.

#### **MALAYSIA**

- (a) The Contract shall be governed by the law of Malaysia
- (b) For legal proceedings taken with respect to this Contract, Supplier and Linde submit to the non exclusive jurisdiction of the Courts at Kuala Lumpur.
- (c) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted in accordance with the Arbitration Act of 2005, and the venue of the arbitration shall be at Kuala Lumpur.

#### **PAKISTAN**

- (a) The Contract shall be governed by the law of Pakistan,
- (b) For legal proceedings taken with respect to this Contract, Supplier and Linde submit to the non exclusive jurisdiction of the Courts at Karachi.
- (c) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted in accordance with the Pakistan law governing arbitration applicable at the relevant time, and the venue of the arbitration shall be at Karachi.

#### **PHILIPPINES**

- (a) The Contract shall be governed by the law of the Philippines.
- (b) Supplier and Linde submit to the non exclusive jurisdiction of the Regional Trial Court of Makati City.
- (c) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted in accordance with the Philippines law governing arbitration applicable at the relevant time, and the venue of the arbitration shall be at Manila.

#### **SINGAPORE**

- (a) The Contract shall be governed by the law of Singapore.
- (b) For legal proceedings taken with respect to this Contract, Supplier and Linde submit to the non exclusive jurisdiction of the Singapore Courts.
- (c) Any disputes, controversies, or differences which may arise between the Parties, out of or in relation to or in connection with this Contract, including any question regarding its existence, validity or termination, or the breach thereof, which cannot be amicably resolved by the Parties as provided in the Contract shall be referred to and finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause.

#### **THAILAND**

- (a) The Contract shall be governed by the law of Thailand.
- (b) For legal proceedings taken with respect to this Contract, and the Supplier and Linde submit to the non exclusive jurisdiction of the Courts at Bangkok.
- (c) Except as otherwise provided herein, arbitration with respect to this Contract shall be conducted in accordance with the Arbitration Rules of the Thai Arbitration Institute Alternative Dispute Resolution Office applicable at the time of submission of the dispute to arbitration. The conduct of the arbitration shall be under the auspices of the Thai Arbitration Institute, and the venue of the arbitration shall be at Bangkok. The language to be used in the arbitral proceedings shall be English.

#### **VIETNAM**

- (a) The Contract shall be governed by and construed in accordance with the laws of Vietnam.
- (b) For legal proceedings taken with respect to this Contract, the Supplier and Linde submit to the non exclusive jurisdiction of the Courts at Ho Chi Minh City.

- (c) All disputes arising from this Contract which cannot be amicably resolved by the Parties as provided in the Contract shall be definitively decided in accordance with the rules of conciliation and arbitration of the International Chamber of Commerce by 3 arbitrators appointed in accordance with these rules.
- (d) The place of arbitration shall be Ho Chi Minh City, Vietnam, and the language to be used in the arbitral proceedings shall be English.