

Air Products AS

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TERMS AND CONDITIONS FOR SALE OF EQUIPMENT

1. **DELIVERY** - The equipment described in this quotation is to be delivered EXW (INCOTERMS 2010) shipping point specified in quotation. Seller will make all reasonable efforts to conform to delivery estimates but in no event will Seller be liable for delays resulting from causes beyond its reasonable control.
2. **CHANGES IN DESIGN OR CONSTRUCTION** - Seller reserves the right in its sole discretion to make any changes it deems desirable in the design or construction of the equipment described in this quotation, without incurring any obligation to furnish Buyer with such changes in similar items previously delivered, provided that any equipment so changed meets the performance specifications.
3. **WARRANTY** - Seller warrants the equipment covered by this quotation and manufactured by it to be free from defects in material and workmanship under normal use and service for a period of one (1) year after date of shipment from its factory. If, not more than one (1) year after date of shipment, any part of such equipment is found to have been defective or damaged at the time it was shipped, it will be repaired or replaced by a similar part, provided that the Buyer gives Seller immediate written notice upon the discovery of any such defective or damaged part to establish the claim. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY LAW, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE FOREGOING REMEDIES ARE IN LIEU OF ALL OTHER REMEDIES AND STATE THE ENTIRE LIABILITY OF THE SELLER FOR EQUIPMENT NOT CONFORMING TO WARRANTY.
4. **PATENTS** - With respect to items of equipment manufactured according to Seller's special design, Seller warrants the same to be free of any infringement of now existing U.S. Patents (not owned or controlled by Seller) covering the construction or general purposes of such items. In case any such equipment is held to constitute infringement in any lawsuit and use of such equipment is enjoined, Seller shall, at its own expense and at its option, either procure for Buyer the right to continue using such equipment, or replace the same with non-infringing equipment, or modify the same so it becomes non-infringing, or recover the equipment and refund the purchase price. The foregoing states the entire liability of Seller for patent infringement and such a liability shall in no event exceed the purchase price of the equipment furnished.
5. **LIABILITY** - EXCEPT FOR THE EXPRESS PROVISIONS OF SECTIONS 3 AND 4 OF THIS QUOTATION, SELLER SHALL NOT FOR ANY REASON BE LIABLE IN CONTRACT OR TORT FOR ANY DIRECT, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BY WAY OF ILLUSTRATION AND NOT LIMITATION, LOSS OF USE, LOSS OF WORK IN PROCESS, DOWN TIME OR LOSS OF PROFITS. SELLER SHALL IN NO EVENT BE LIABLE FOR ANY INJURY TO PERSONS OR PROPERTY ARISING FROM THE PRESENCE OR USE OF ANY EQUIPMENT, WHETHER USED SINGLY OR IN COMBINATION WITH OTHER ITEMS OF EQUIPMENT.
6. **TAXES** - The price for the equipment does not include any excise, sales, privilege, or use tax or taxes which are payable by Seller because of the execution of any agreement resulting from this quotation, or the sale or delivery of the equipment, and Buyer shall reimburse Seller of any such tax or taxes for applicable period.
7. **FORCE MAJEURE** - Neither party hereto shall be considered in default in the performance of its obligations hereunder (other than its obligation to make any payment of money hereunder), or be liable in damages or otherwise for any failure or delay in performance which is due to strikes, lockouts, concerted acts of workmen or other industrial disturbances, fires, explosions, floods, or other natural catastrophes, civil disturbances, riots or armed conflict whether declared or undeclared, curtailment, shortage, rationing or allocation of normal sources of supply of labor, materials, transportation, energy, or utilities, accidents, Acts of God, delays of subcontractors or vendors, sufferance of or voluntary compliance with acts of government and government regulations (whether or not valid), embargoes or any other similar or dissimilar cause which is beyond the reasonable control of the party affected. Neither party hereto shall be required to make any concession or grant any demand or request to bring to an end any strike or other concerted act of workmen.
8. **TECHNICAL SERVICE**: Should Buyer deem it necessary that Seller provide technical consultation, advice, instruction, or service relating to operation of the Equipment at the site of the Equipment during the applicable warranty period (hereinafter referred to as "Technical Service"), Buyer shall so advise Seller in writing. Unless such Technical Service is specifically included in the price of the contract, Buyer shall reimburse Seller at the Seller's then current rate for each man-day or portion thereof including travel time, plus all reasonable travel expenses expended by Seller in providing such Technical Service.
9. **INTERPRETATION** - Any agreement between Seller and Buyer resulting from acceptance of this quotation shall be interpreted according to Orgalime S2012. Any terms or conditions in Buyer's acceptance of this quotation which conflict with the conditions hereof, or increase Seller's obligations hereunder, shall not be binding on Seller unless accepted in

writing by an executive officer of Seller. Norwegian jurisdiction shall be applied and any possible legal proceedings shall be made in Norway.

10. **PAYMENT** – Payment is net thirty (30) days of the receipt of Seller's invoice. If any shipment or other act or condition affecting payment for the Equipment or any part thereof shall for any reason be delayed by Buyer, payment shall become due upon notice by Seller that the equipment is ready for shipment, and thereafter Seller shall hold the equipment at Buyer's risk and expense.
11. **INVOICES** - Invoices not paid when due are subject to a service charge at 18% per annum or the maximum rate permitted by law and adjusted as necessary to reflect the cost of carrying past due receivables.
12. **PROPRIETARY INFORMATION** - a.) Air Products has developed valuable proprietary gas separation technology. Buyer will receive hereunder Air Products' proprietary information relating to Air Products' proprietary gas separation technology. Air Products authorizes the necessary and reasonable use by Buyer of Air Products' proprietary information solely for the evaluation, installation, operation and maintenance of PRISM® Membrane Separation Systems at Buyer's facilities. No other use or disclosure is authorized. b.) Buyer agrees to receive and hold in confidence Air Products' proprietary information. Except as expressly authorized herein. Buyer also agrees not to use, or allowed to be used, Air Products' proprietary information, in whole or in part, in manufacturing or selling gas separation equipment without the express written permission of Air Products. These obligations of confidence shall not obligate Buyer to keep confidential that information which Buyer can show has become part of the public domain through no fault of Buyer; has been independently provided to Buyer by a third party as a matter of right and without restriction on disclosure or use; or was in Buyer's possession prior to Buyer's receipt hereunder as evidenced by written documentation and not received directly or indirectly from Air Products. Buyer agrees to deliver to Air Products all documents, including copies containing Air Products' proprietary information when no longer required for any authorized used hereunder and upon Air Products' request.