

Los Rios Community College District

PURCHASE ORDER NO B230674

Purchasing: (916)568-3071
LRCCDpurchase@losrios.edu

Accounting Ops: (916)568-3065 * FAX (916) 286-3636
Acctg-ops@losrios.edu

PLEASE SEE TERMS AND CONDITIONS APPENDED TO THIS PO

Date 10/17/2022	Revision	Page 1
Payment Terms NET 30	Freight Terms Shipping Point	Ship Via Best Method
Reference: 1039366 HINTZEJ	Location / Dept 04CYPH100A	

Supplier: 0000049658
LINDE GAS & EQUIPMENT INC
CUSTOMER SERVICE
3100 POWER INN RD
SACRAMENTO CA 95826-3802

Phone: (800) 229-4449

email: lg.us.pdcscr@linde.com

Ship To: FOLSOM LAKE COLLEGE
RECEIVING
10 COLLEGE PARKWAY
FOLSOM CA 95630
United States

Bill To: LRCCD
Invoice to: acctg-ops@losrios.edu
1919 Spanos Court
Sacramento CA 95825-3981
United States

Tax Exempt? N

Line-Sch	Item/Description	Quantity UOM	PO Price	Extended Amt	Due Date
1- 1	5601 BLANKET PURCHASE ORDER FOR RENTAL OF COMPRESSED GAS CYLINDERS FOR FOLSOM LAKE COLLEGE CHEMISTRY 10/11/22 TO 6/30/23	1.00 EA	1,100.00	1,100.00	06/30/2023
2- 1	4300 BLANKET PURCHASE ORDER FOR REFILLS OF COMPRESSED GAS CYLINDERS, LIQUID NITROGEN, AND SUPPLIES. VALID DATE 10/11/2022 TO 6/30/2023	1.00 EA	2,500.00	2,500.00	06/30/2023

VALID FROM 10-01-2022 TO 06-30-2023

AUTHORIZED PERSONNEL:
GREG MCCORMAC
LINDA SANTORO
JEANNE HINTZE
DOMINIK GREEN

Email PO To: tiffany_ellingson@praxair.com

Sub Total Amount	3,600.00
Sales Tax Amount	0.00
Total PO Amount	3,600.00

BU	Acct	Fd	Org	Prog	Sub	Proj	Amount	BYear
GENFD	4300	12	FL.VI.CHEM	19050	00000	700P	2,500.00	2023
GENFD	5601	11	FL.VI.CHEM	19050	00000	101E	1,100.00	2023

All shipments, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.

Authorized Signature
Kim Carrillo

Notice to vendor: You are responsible for delivering good and delivery documents to the Receiving Department at the site. Failure to so do will delay payment processing. Vendor is responsible for obtaining verification of delivery by authorized Receiving Room personnel. Receipt of good by other parties and failure to obtain authorized signatures may also delay payment. NOTE: PAYMENT TERMS NET 30 MATERIAL SAFETY DATA SHEETS (MSDS) must be provided with the delivery of product as required by law.

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Date	Revision	Page
10/17/2022		2
Payment Terms	Freight Terms	Ship Via
NET 30	Shipping Point	Best Method
Reference:	Location / Dept	
1039366 HINTZEJ	04CYPH100A	

Ship To: FOLSOM LAKE COLLEGE
RECEIVING
10 COLLEGE PARKWAY
FOLSOM CA 95630
United States

Bill To: LRCCD
Invoice to: acctg-ops@losrios.edu
1919 Spanos Court
Sacramento CA 95825-3981
United States

Tax Exempt? N

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
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0001039366MCKECHND17-OCT-2022

Verification of this purchase order can be made using the Los Rios Community College District web site listed below. If you have any questions, please contact the Purchasing Office at email address: LRCCDpurchase@losrios.com.

<https://psreports.losrios.edu/PurchaseOrderInformation.asp>

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Authorized Signature
AUTHORIZED SIGNATURE ON PO TOTAL PAGE

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LOS RIOS COMMUNITY COLLEGE DISTRICT

American River College • Cosumnes River College • Folsom Lake College • Sacramento City College

PURCHASE ORDER TERMS AND CONDITIONS

1. **APPLICABLE LAW:** The contract resulting from this order shall be governed by the laws of the State of California.
2. **COMPLETION OF ORDERS:** LRCCD reserves the right to withhold payment until order is completed.
3. **DISCOUNTS:** Please show cash payment discount offered on your invoice in connection with any discount offered, time will be computed from date of delivery of the supplies or equipment, or from date correct invoices are received in the office specified by LRCCD if the latter date is later than the date of delivery. Payment is deemed to be made for the purpose of earning discount, on the date payment is mailed or on behalf of LRCCD.
4. **INVOICES:** Invoices shall be prepared and submitted in duplicate unless otherwise specified. Invoices shall contain Purchase order number, date, description of items, sizes and quantities, unit prices, extended totals, place and date of delivery. Invoices or vouchers not on printed bill heads shall be signed by the CONTRACTOR or person furnishing the supplies or services. Every invoice shall be properly itemized. If LRCCD has not received billing for product or services within a one year period LRCCD will not be held responsible for satisfying the debt.
5. **CHANGES:** No change or modification in terms, quantities, or specifications may be made without express authorization in writing from the LRCCD Purchasing Office and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto. If unit cost of any item exceeds the amount shown by 10% or \$250.00 whichever is less do not ship. Contact LRCCD Purchasing at the phone number provided.
6. **BILL OF LADING:** If Bill of Lading is applicable to this order, send originals to "Ship to" address and duplicate Bill of Lading with invoices to "Bill to" address. All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show purchase order number. If factory shipment, advise factory to comply.
7. **TRANSPORTATION CHARGES:** Invoices for prepaid transportation charges must be supported by original receipted expense bills.
8. **FOB POINT AND FREIGHT CHARGES:** Unless otherwise specified on this order, all items shall be delivered FOB Destination. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, or for any other purpose will be paid by LRCCD unless expressly included and itemized in the order. Unless otherwise shown, on "FOB Shipping Point" transactions, CONTRACTOR shall arrange for lowest cost transportation, prepay and add freight to invoice and furnish supporting freight bills if the amount exceeds \$50.00. On "FOB Shipping Point" transactions, should any shipments under this purchase order be received by LRCCD in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers be wholly or partially declined with the inference that damage was the result of the act of the shipper such as inadequate packaging or loading or some inherent defect in the equipment and/or material, CONTRACTOR on request of LRCCD shall at CONTRACTOR's own expense assist LRCCD in establishing carrier liability by supplying evidence that the equipment and/or materials was properly constructed, manufactured, packaged, and secured to withstand normal transportation conditions. Shipments that are California intrastate in nature and where freight is to be borne by LRCCD shall be tendered to carriers with written instructions that rate and charges may not exceed the lowest lawful rates on file with the California Public Utilities Commission.
9. **PATENT INDEMNITY:** The CONTRACTOR shall hold LRCCD, its officers, agents and employees harmless from alleged liability of any nature or kind, including costs and attorney fees and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract or purchase order.
10. **TAXES:** Certain articles sold to LRCCD are exempt from certain Federal excise taxes. LRCCD will reimburse the CONTRACTOR for, or pay directly, all California State and local sales and use taxes applicable to this purchase.
11. **EQUAL OPPORTUNITY EMPLOYER:** The acceptance of this purchase order by a supplier of goods and services is a certification that such supplier complies with all provisions of executive order 11246 and is an equal opportunity employer.
12. **GENERAL SAFETY ORDERS:** All materials, supplies and services sold to LRCCD shall conform to the general safety orders of the State of California. All materials, except as otherwise specified, must be new and of the best quality of their respective kinds.
13. **INDEMNIFICATION:** CONTRACTOR shall indemnify, defend and hold harmless LRCCD, its trustees, officers, agents, employees and volunteers, from any and all claims, demands, suits, causes of action, damages, penalties, breaches of this agreement, infringement of patent rights, costs, expenses, violations of employee occupational health and safety laws, attorney fees, losses or liability, property damage, personal injuries to or death of per arising out of, alleged to have arisen out of, or relating in any way to CONTRACTOR's work to be performed under this agreement, except if caused solely by the negligence of LRCCD.
14. **TERMINATION:** LRCCD may terminate this agreement and be relieved of the payment of any consideration to CONTRACTOR should CONTRACTOR fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination LRCCD may proceed with the work in any manner deemed proper by LRCCD. The cost to LRCCD shall be deducted from any sum due the CONTRACTOR under this agreement and the balance if any, shall be paid the CONTRACTOR upon demand.
15. **ASSIGNMENT:** Without the written consent of LRCCD, this agreement is not assignable by CONTRACTOR either in whole or in part.
16. **PUBLIC WORKS PROJECTS:** CONTRACTOR must comply with Public Contract Code.
17. **CA LABOR CODE:** Pursuant to Section 1700, and following, the CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are on file at the Business Office of the Los Rios Community College District, 1919 Spanos Court, Sacramento, CA 95825. Those copies shall be made available to any interested party upon request. The CONTRACTOR shall forfeit, as penalty to the LRCCD, Fifty Dollars (\$50.00) for each calendar day or portion thereof, for each workman paid less than the stipulated prevailing rates for any work done under the contract by him/her or by any subcontractor under him, in violation of the provisions of such Labor Code.
18. **NOTICE:** Your employees may be exposed to hazardous substances during the course of their work while on LRCCD property. For additional information on the hazardous substances that your employees may be exposed to contact LRCCD General Services Department at (916) 568-3048.
19. **INSURANCE:** CONTRACTOR shall, at all times, maintain in full force and effect the following insurance: Workers' Compensation, Commercial General Liability, Auto Liability, and Professional Liability, if licensed professional. Policy limits for each shall be at least \$1,000,000 AND \$1M, \$2M, or \$3M AGGREGATE as prescribed by DISTRICT requirements for bodily injury, personal injury and property damage. Any combination of General Liability and Excess Coverage can be combined to meet the Aggregate. LRCCD shall be named as an additional insured on CONTRACTOR's policies. The CONTRACTOR shall provide a certificate of insurance and required endorsements to comply with this section at least 15 days prior to commencement of work under this contract. The certificate shall state that LRCCD will be given 30 days notice of any material change or cancellation in coverage. LRCCD insurance requirements can be viewed on the following website www.losrios.edu/purchasing.
20. **DISQUALIFIED EMPLOYEES:** CONTRACTOR shall ensure that persons who perform services on LRCCD property have not been convicted of any felony, or any controlled substance offense or any sex offense as defined by Education Code section 87008-87010. If LRCCD determines that any person employed by CONTRACTOR to work on LRCCD property is incompetent, unfaithful, intemperate, disorderly, abusive or is otherwise unsatisfactory, CONTRACTOR shall cause that employee to be removed from working on LRCCD property immediately, and that person shall not be employed again on LRCCD property.
21. **WORK AUTHORIZATION:** Prior to LRCCD's acceptance of this Agreement, CONTRACTOR's who are not U.S. citizens must provide verification of (a) work authorization status from the appropriate U.S. Department of State; (b) a copy of their U.S. visa; (c) the number of days present in the U.S.; and (d) tax treaty status. LRCCD shall not make any payments to CONTRACTOR unless CONTRACTOR holds the appropriate U.S. visa. CONTRACTOR is responsible for ensuring they are in possession of the appropriate visa.
22. **WARRANTY:** CONTRACTOR expressly warrants that all materials, goods, equipment, services, and/or labor shall conform to the requirements set forth or incorporated into this order and any applicable industry standards or requirements, shall be merchantable and free from defects in workmanship, materials and/ or design (including latent defects), and shall perform as specified. CONTRACTOR further warrants that all materials, goods, equipment, services, and/or labor will be fit and sufficient for the particular purposes intended by LRCCD. Unless agreed upon otherwise between LRCCD and CONTRACTOR, the warranty period shall be the longer of: (a) any express warranty included in this service agreement; (b) one year after the materials, goods, equipment, services, and/or labor are accepted by LRCCD; or (c) any warranty period provided under any applicable California law. CONTRACTOR further represents and warrants that any software/ hardware/ communications system/ equipment provided under this Agreement (collectively "technology") adheres to the standards and/or specifications as may be set forth in the Section 508 of the Rehabilitation Act of 1973 standards guide and is fully compliant with WCAG 2.0 AA standards for accessibility and compliant with any applicable FCC regulations. If portions of the technology or user experience are alleged to be non-compliant or non-accessible, LRCCD will provide CONTRACTOR with notice of such allegation and CONTRACTOR shall use its best efforts to make the technology compliant and accessible. CONTRACTOR shall indemnify, defend, and hold harmless LRCCD from and against any and all claims, allegations, liabilities, damages, penalties, fees, costs (including but not limited to reasonable attorneys' fees), arising out of or related to allegations the technology is not accessible.
23. **CERTIFICATION:** CONTRACTOR warrants that it is not debarred or suspended, proposed for debarment or declared ineligible for award of contracts by any Federal, State or local Agency.



Making our world more productive

Linde Gas and Equipment Inc.

ELLINGSON, TIFFANY
3100 Power Inn Rd, Sacramento, CA, 95826
Phone: 650-455-7396
Email: tiffany_ellingson@praxair.com

Quoted To

Jeanne Hintze

Address: 10 College Parkway, Folsom, CA, 95630
Phone:
Email: hintzej@flc.losrios.edu
Delivery Address: 10 College Parkway, Folsom, CA, 95630

Quote Information

Customer: Folsom Lake College - FL2-118 Cypress Hall
Customer Number:
Quote ID: 143564
Issue Date: 10/10/2022

Table with 5 columns: ITEM #, DESCRIPTION, QUANTITY, UOM, UNIT PRICE. Contains 8 rows of gas and equipment items.

Table with 5 columns: ITEM #, DESCRIPTION, UOM, UNIT PRICE. Contains 7 rows of service charges and delivery fees.

NOTES

PRICES QUOTED ARE VALID FOR 30 DAYS.
PLEASE NOTE: HELIUM PRODUCTS REQUIRE A PRODUCT SERVICE AGREEMENT.

SIGNATURE Tiffany Ellingson

TERMS AND CONDITIONS

1. Prices, Price Changes, Payment

Seller will invoice Buyer and Buyer will pay Seller the Prices for Product listed on the purchase order attached hereto (the "Purchase Order") in cylinders and other containers including liquid containers and/or bulk, including "mini" or "micro" bulk and ancillary equipment (collectively, "Containers"), equipment, or services supplied hereunder and any charges and surcharges related thereto, including those associated with regulatory and environmental compliance, greenhouse gas emission reductions, and obtaining power and transportation (collectively, "Charges and Surcharges"). Seller will have the right, upon fifteen (15) days prior written notice, to revise the Prices, Charges and Surcharges. In addition, Buyer will pay or reimburse Seller for any sales, property, use, excise or other duty, tax, charge or fee now or hereafter imposed by reason of any sale, delivery or furnishing of any Product, equipment or services hereunder. Terms of payment will be net ten (10) days following date of invoice. If Buyer fails to make timely payment when due, or its financial responsibility becomes otherwise impaired, or Buyer is otherwise in default of its obligations hereunder, Seller may, among other remedies, refuse to supply Product except for receipt of cash with order and/or payment in full of all outstanding charges, and/or charge to Buyer a monthly late charge on any delinquent balance equal to the maximum charge permitted by law, and/or enter Buyer's premises and remove any Container, Supply System or other Equipment of Seller located thereat with or without notice or legal process, and/or suspend Seller's performance hereunder and/or terminate the supply of Product, equipment or services hereunder. Buyer will pay Seller all fees and costs of such collection, recovery or enforcement of the terms hereof including reasonable legal fees and expenses required to collect Buyer's delinquent account or recover any of Seller's property.

2. Delivery

Buyer shall give Seller reasonable advance notice of the quantities of Product needed for its use of Buyer's pattern of use and any significant change thereto. Seller may anticipate Buyer's requirements for Product and deliver Product to the location(s) listed on the Purchase Order (each, a "Location") at such times as are consistent with Seller's delivery schedule. Quantities delivered will be measured by Seller's standard methods for the type of delivery made. The delivery of Product will constitute Buyer's purchase thereof. Product in Containers will be delivered F.O.B. point of shipment. Buyer grants to Seller the right of twenty-four (24) hour access to each Supply System site, and if Seller is unable to deliver Product at any time consistent with Seller's delivery schedule or otherwise under the terms hereof due to any act or omission of Buyer, Buyer will pay Seller any applicable delivery option charge set forth in Seller's delivery option charge schedule. Seller may in its sole discretion determine whether to deliver in response to a request from Buyer to deliver to a Location affected by a strike or concerted act of workers provided Buyer will indemnify and hold harmless Seller from and against any and all liabilities and claims arising from such deliveries notwithstanding anything herein to the contrary.

3. Specifications, Warranties

Product delivered hereunder will meet the Specifications. Buyer may reject any Product which does not meet the Specifications and no charge will be made for Product so rejected. With respect to any items or equipment, including Containers, hard goods or welding and other consumable goods (collectively, "Equipment") covered hereunder and not manufactured by Seller, Seller shall make reasonable efforts to assist Buyer in obtaining the benefit for Buyer of any manufacturer's warranty, to the extent available and applicable to Buyer (copies of which may be available on the manufacturer's website). All Equipment warranties provided are contingent upon Buyer's use and maintenance of the Equipment in accordance with all manuals and other literature relating to the operation of the Equipment provided or made available to Buyer by the manufacturer or Seller from time to time. Seller warrants that any services performed hereunder will be rendered in a professional and workmanlike fashion and if any Services fail to conform to this warranty, Seller shall, at its option, conform such Services to this warranty, at no cost to Buyer, or refund the lesser of the portion of the purchase price paid for such nonconforming Services or the cost of the actual damages. THERE ARE NOWARRANTIES BY SELLER RELATING TO THE PRODUCT, ANY EQUIPMENT, OR ANY SERVICES OTHER THAN UNDER THIS ARTICLE 3. NO WARRANTIES BY SELLER (OTHER THAN WARRANTY OF TITLE AS PROVIDED IN THE UNIFORM COMMERCIAL CODE) WILL BE IMPLIED OR OTHERWISE CREATED UNDER THE UNIFORM COMMERCIAL CODE INCLUDING WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

4. Remedy

Subject to Article 5, Buyer's exclusive remedy for the unexcused failure to deliver Product when required by Buyer, regardless of cause, including negligence, shall be to recover from Seller the difference between the cost to Buyer of any reasonable purchase of Product in substitution for Product not delivered and the lesser price of such quantity of Product hereunder. No claim of any kind with respect to the conformance of Product to the Specifications, or for nonconforming Services, whether or not based on negligence, warranty, strict liability or any other theory of law, will be greater than the price of the quantity of nonconforming Product or Services in respect to which such claim is made. The foregoing constitutes Buyer's exclusive remedy and Seller's sole obligation with respect to any such claim. Seller's obligations in Section 4 constitute Buyer's exclusive remedy and Seller's sole obligation with respect to any warranty claim with respect to the Equipment or part thereof. All claims of Buyer related to any Product, Equipment, other items or services shall be made in writing within ten (10) days after delivery thereof. Failure of Buyer to give such notice shall constitute a waiver by Buyer of any such claims and a defense for Seller therefrom.

5. Contingencies

Except for the obligation to pay money, neither party hereto shall be liable to the other for default or delay in performance due to act of God, accident, fire, flood, storm, riot, war, terrorism, sabotage, explosion, strike, labor disturbance, governmental law or regulation, inability to obtain electricity or other type of energy, feedstock, raw or finished material, equipment or transportation, or any similar or different contingency beyond its reasonable control which would prevent or delay performance or make performance commercially impracticable. Seller will conduct any allocations among its own, and its customers', requirements in a fair and reasonable manner. Buyer will pay for any additional costs related to deliveries of Product during a contingency.

6. Health, Safety

Buyer (i) acknowledges that there are hazards associated with Product, including the storage, use and handling thereof; (ii) will warn, protect and train its employees, contractors and others exposed to the hazards posed by Buyer's storage, use and handling of Product; (iii) assumes all responsibility for the suitability and the results of using Product alone or in combination with other articles or substances and in any manufacturing, medical, or other process or procedures; and will notify Seller of any hazards and safety procedures at the Location(s). If, at any time, Seller considers that the performance of the supply obligations hereunder would pose an unreasonable risk to safety, Seller may suspend its supply obligations without notice. Each party, in the performance of the terms hereof, will comply with all relevant federal, state and local laws, codes, regulations and ordinances, including all environmental laws, in each case as applicable to such party. Seller will provide Buyer with Seller's safety and health documents pertaining to Product, including Seller's Safety Data Sheets, and Buyer will incorporate such information into Buyer's safety program.

7. Limitations on Liability

Seller will not be liable to Buyer for any incidental, consequential, indirect, special or exemplary damages (including lost profits, sales or other similar damages) arising in connection with the transactions to which these terms and conditions apply without regard to the nature of the claim or the underlying theory or cause of action (whether in contract, tort, strict liability, equity or any other theory of law) on which such damages are based.

8. Indemnity

(a) Each party will indemnify and hold harmless the other party from and against any and all costs, fees (including reasonable legal fees and expenses), damages, liabilities and claims arising from the injury, illness or death of the indemnifying party's employees in any way related to any activities performed in connection with or Product supplied by Seller hereunder, whether or not such injury, illness, or death is claimed to have been caused by, resulted from, or was in any way connected with the negligence of the party to be indemnified. (b) Buyer represents and warrants to Seller that this Purchase Order does not violate the terms of any other contract of Buyer to purchase Product for Buyer's Location(s) and Buyer will indemnify, and hold harmless Seller from and against any and all liabilities and claims (including legal fees and expenses) which Seller incurs in connection with any claim(s) asserted by any third party if such representation and warranty is false.

9. Supply System and Supply System Sites

For each Supply System, Buyer, at its expense, will provide and maintain a suitable site and suitable access as mutually agreed upon by the parties, construct a suitable foundation as specified by Seller, install fencing adequate to prevent tampering and install isolation barriers all as specified by Seller, obtain any necessary permits and licenses, install and maintain a properly designed system for the distribution of Product from each Supply System to Buyer's points of use, and furnish utilities as required by Seller, such as electric power, lighting, telephone lines, internet connections, water and/or steam, and the facilities to deliver such utilities to the point(s) on each Supply System site designated by Seller. Each Supply System site furnished by Buyer hereunder will be free from toxic and hazardous materials (including corrosives) or other debris which would prevent or increase the cost of the installation or operation of the Supply System, or which could cause injury or death of Seller's employees or any other persons on or at the Supply System site, or which could cause damage to any adjoining property. If the atmospheric or other environmental conditions or the operations at Buyer's Location(s) affect the safe or reliable operation, or result in the imposition of any additional fees, costs or expenses relating to the maintenance, repair or operation of the Supply System, Buyer will promptly correct such conditions and reimburse Seller for any fees, costs and expenses incurred by Seller attributable to such conditions. Notwithstanding anything herein to the contrary, Buyer will indemnify, defend and hold harmless Seller from and against any and all costs, fees (including reasonable legal fees and expenses), damages, liabilities, claims, penalties and fines that result from any toxic or hazardous materials now or hereafter in, on or under the Supply System site and do not occur or result directly from Seller's performance pursuant hereto. If any Supply System or Container is damaged by Buyer, its agents, employees, contractors or invitees, the cost of repairing such Supply System or Container will be borne by Buyer. Buyer will prevent persons other than those authorized by Seller from (i) entering any Supply System site, delaying delivery of Product, or altering, repairing, adjusting or otherwise tampering with any Supply System; or (ii) filling or refilling of any Containers with any substance. Buyer will comply with all laws, rules and regulations applicable to Buyer's Location relating to a safe and secure operation and Seller will have the right, without any liability hereunder, to refuse to deliver Product to Buyer's Location if Seller reasonably determines that Buyer is not in compliance with any such law, rule or regulation or that Buyer is not providing a workplace at Buyer's Location that is free from known hazards that will result or are likely to result in death or serious harm. Seller will install each Supply System and make the connection to Buyer's Product distribution system. The costs associated with installing each Supply System and connecting it to Buyer's Product distribution system, including, transportation and rigging costs, will be borne by Buyer. Seller will not be responsible for connecting any cylinder to Buyer's Product distribution system. Seller will, at Buyer's expense, remove each Supply System within a reasonable time after the fulfillment of Seller's Product supply obligations pursuant to the Purchase Order. Seller may at its expense remove any Supply System or part thereof, and replace it with another Supply System or part thereof, as Seller may deem appropriate for the supply of Buyer's requirements of Product. Seller will have the right from time to time to shut down each Supply System for such period of time as may be necessary for repairs and maintenance consistent with proper operation. Each Supply System or Container will remain the property of Seller at all times. Buyer will indemnify, defend and hold harmless Seller from and against costs, fees (including reasonable legal fees and expenses), damages, liabilities and claims arising in connection with any liens filed against any Supply System or Container due to its location on Buyer's premises. [If Seller relocates, modifies or replaces all or part of any Supply System, due to a change in Buyer's requirements, method of supply, pressure specifications, Buyer's Location or Buyer's facilities Seller may charge Buyer the cost of such relocation, modification or replacement, and adjust the Monthly Service Charge therefor.] Risk of loss of Containers shall pass to Buyer upon delivery. Buyer will return all Containers in good condition, complete with caps and fittings and shall pay Seller, at Seller's then-current published price, for any Containers lost or damaged beyond normal wear and tear. By paying the amount specified for Containers on Seller's invoice, Buyer shall be deemed to agree that, as of the date of such invoice, Buyer is in possession of the number and type of Containers specified on such invoice.

10. General

The entire agreement is contained herein and any other or different terms or conditions in any other purchase orders, Buyer's website agreements or other documents will be deemed null and void. If Seller records any telephone conversations, notice of such recordings will be provided and Buyer hereby consents to such recordings. Modifications and waivers hereof are not binding unless in writing and a waiver will apply solely to the instance for which sought. Headings are for convenience only, and shall not be used to interpret these terms and conditions. The word "including" and variations thereof used herein are deemed to be followed by the words "without limitation." Any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the interpretation of these terms and conditions. The Purchase Order and these terms and conditions will be governed by the laws of the State of New York. THE PARTIES WAIVE TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING IN ANY WAY RELATING HERETO.