



Terms and conditions for suppliers

Terms and Conditions for the supply of Goods and/or Services by Supplier to AVERDA (T&Cs)

1. Definitions

AVERDA: The AVERDA entity whose details are set out in the Purchase Order. **Contract:** The contract between AVERDA and the Supplier for the supply of Goods and/or Services, which automatically comes into existence on the earlier of (i) the signing of the Purchase Order by the Supplier and AVERDA, (ii) the Supplier doing any act consistent with fulfilling the Purchase Order and (iii) five working days following delivery of the Purchase Order to the Supplier, and comprises the Purchase Order and these T&Cs and excludes any other documents, including any terms or conditions which the Supplier purports to apply. **Deliverables:** All documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports. **Delivery Address:** The location where the Goods shall be delivered and/or the Services shall be performed by the Supplier, as set out in the Purchase Order. **Force Majeure:** An event beyond the reasonable control of either Party including, without limitation, industrial disputes, failure of a utility service or transport network, war, riot, civil commotion, acts of terrorism, acts of the government or government bodies, compliance with any law or governmental order, accident, fire, flood or storm. **Goods:** The goods to be supplied by the Supplier to AVERDA, as described in the Purchase Order and on the terms set out in the Contract. **Goods Specification:** Any specification for the Goods, including any related plans and drawings that is agreed in writing by AVERDA and the Supplier. **Parties:** AVERDA and the Supplier and Party means any one of them. **Planned Purchase Order.** The planned purchase order provided by AVERDA to the Supplier in connection with a certain order of Goods setting out quantities and desired delivery dates for the Goods over an extended period of time, to which these T&Cs form part. **Purchase Order:** The purchase order (including any Release Purchase Order) provided by AVERDA to the Supplier in connection with the Goods and/or Services to which these T&Cs form part. **Purchase Price:** The price which will be paid by AVERDA to the Supplier in return for the Supplier supplying the Goods and/or Services, the details of which are set out in the Purchase Order. **Release Purchase Order:** The release purchase order provided by AVERDA to the Supplier creating a binding purchase order between the Parties in relation to certain Goods set out in a Planned Purchase Order, to which these T&Cs form part. **Services:** The services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Purchase Order. **Supplier:** the party supplying the Goods and/or services to AVERDA whose details are set out on the Purchase Order. **T&Cs:** These Terms and Conditions for the supply of Services, which form part of the Contract.

2. Application of T&Cs

2.1 Application: These T&Cs apply to all purchase orders for Goods and/or Services made or issued by AVERDA.

2.2 Entire Agreement: This Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

3. Delivery of Goods

3.1 Delivery: The Supplier shall deliver the Goods on the date specified in the Purchase Order, or, if no date is specified, within 28 days of the date of the Purchase Order to the Delivery Address and during AVERDA's normal business hours, or as instructed by AVERDA.

3.2 Completion: Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Address.

3.3 Planned Purchase Orders. AVERDA may submit a Planned Purchase Order to the Supplier, subject to agreement between the Parties. All quantities and desired delivery dates in such Planned Purchase Order are estimates only and shall only become binding on the Parties on the receipt by the Supplier from AVERDA of a Release Purchase Order corresponding to the particular quantity and delivery date set out in the relevant Planned Purchase Order. AVERDA may cancel the whole or part of a Planned Purchase Order at any time on immediate written notice to the Supplier.

4. Supply of Services

4.1 Services: The Supplier shall from the date set out in the Purchase Order and for the duration of the Contract provide the Services to AVERDA at the Delivery Address in accordance with the terms of the Contract.

4.2 Performance Dates: The Supplier shall meet any performance dates for the Services specified in the Purchase Order or notified to the Supplier by AVERDA. 5. Quality

5.1 Goods: The Supplier warrants that the Goods shall: (a) be safe and environmentally sound as far as practically possible (b) correspond with their description and any applicable Specification; (c) be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by AVERDA expressly or by implication, and in this respect AVERDA relies on the Supplier's skill and judgment; (d) where they are manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after delivery; (e) comply with all applicable statutory and regulatory requirements relating to the manufacture, labeling storage, handling and delivery of the Goods.

5.2 Services: In providing the Services, the Supplier shall:

(a) co-operate with AVERDA in all matters relating to the Services, and comply with all instructions of AVERDA; (b) perform the Services with the best care, skill and diligence in accordance with best practice in

the Supplier's industry, profession or trade; (c) use sufficient number of personnel who are suitably skilled and experienced to perform tasks assigned to them without creating unnecessary risk for themselves and others and to ensure that the Supplier's obligations are fulfilled in accordance with the Contract; (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Purchase Order or agreed in writing between the Parties, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by AVERDA;

(e) provide all equipment, tools and vehicles and such other items as are required to provide the Services; (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to AVERDA, will be free from defects in workmanship, installation and design; (g) obtain and at all times maintain all necessary licenses and consents, and comply with all applicable laws and regulations; (h) observe all health, safety and environmental rules and regulations, and any other security requirements that apply at any of AVERDA's premises; (i) hold all materials, equipment and tools, drawings, specifications and data supplied by AVERDA to the Supplier (the "AVERDA Materials") in safe custody at its own risk, maintain the AVERDA Materials in good condition until returned to AVERDA, and not dispose or use the AVERDA Materials other than in accordance with AVERDA's written instruction or authorization; and (j) not do or omit to do anything which may cause AVERDA to lose any license, authority, consent or permission upon which it relies for the purpose of conducting its business, and the Supplier acknowledges that AVERDA may rely or act on the Services.

5.3 Licenses: The Supplier shall ensure that at all times it has and maintains all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Contract.

5.4 Inspection: AVERDA shall have the right to inspect and test the Goods at any time before delivery. If following such inspection or testing, AVERDA considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 5.1 AVERDA shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and AVERDA shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

5.5 Shelf Life: If the Goods have a limited or specified shelf life, the Supplier undertakes: (a) to provide AVERDA with the cure or manufacture date, the expiration date or shelf life and, where applicable, any special handling or storage requirements (such as material safety data sheets, etc.); and (b) that such Goods shall have a minimum of 75% of remaining shelf life on the date of delivery.

6. Remedies

6.1 Remedy for breach: If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date or fails to comply with the undertakings in clauses 5.2 or 5.3, without limiting any of its other rights or remedies, AVERDA shall have the right to any one or more of the following remedies: (a) terminate the Contract; (b) refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make; (c) recover from the Supplier any costs incurred by AVERDA in obtaining substitute goods and/or services from a third party; (d) where AVERDA has paid in advance for Services which have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and (e) to claim damages for any additional costs, loss or expenses incurred by AVERDA which are in any way attributable to the Supplier's failure to meet such dates.

6.2 Liquidated damages: If the Goods are not delivered and/or the Services are not performed by the applicable date, AVERDA may, at its option, claim or deduct 1% of the price of the relevant Goods and/or Services for each day of delay by way of liquidated damages, up to a maximum of 10% of the total value of the relevant Purchase Order.

6.3 Non-conforming Goods: If the Supplier has delivered Goods that do not comply with the warranties and undertakings set out in clauses 5.1 and 5.5, at any time during the warranty period of 12 months from the date of delivery, then, without limiting its other rights or remedies, AVERDA shall have one or more of the following rights, whether or not it has accepted the Goods: (a) reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense; (b) terminate the Contract with immediate effect by giving written notice to the Supplier; (c) require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods; (d) refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make; (e) recover from the Supplier any costs incurred by AVERDA in obtaining substitute goods from a third party; (f) claim damages for any other costs, loss or expenses incurred by AVERDA which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

6.4 Application: This clause shall apply to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

7. Title and Risk Title and risk in the Goods shall pass to AVERDA on completion of delivery.

8. Price and Payment

8.1 Price: The price of the Goods and/or Services shall be the price

set out in the Purchase Order, or, if no price is quoted, the price agreed in writing between AVERDA and the Supplier.

8.2 Invoice: The Supplier shall invoice AVERDA for the Goods and/or Services within a maximum of 3 working days from the completion of delivery of the Goods and/or completion of performance of the Services, as appropriate.

8.3 Payment: AVERDA shall pay correctly rendered invoices in accordance with the payment term set out in the Purchase Order. Payment shall be made to the bank account nominated in writing by the Supplier.

8.4 Set Off: AVERDA may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to AVERDA against any liability of AVERDA to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

9. Installation If the Supplier is providing the Goods and/or Services which require installation, please log in to AVERDA's website at averda.com to input the relevant details relating to the installation.

10. Insurance During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on AVERDA's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

11. Termination

11.1 Termination by AVERDA: If the Supplier breaches the Contract including, without limitation: (a) the Supplier commits a breach of its obligations hereunder; or (b) the Supplier becomes insolvent or passes a resolution to be wound up, then AVERDA may terminate the Contract with immediate effect by written notice, upon which the Supplier shall discontinue all work on the Contract.

11.2 Termination by Supplier: If AVERDA becomes insolvent or passes a resolution to be wound up, then the Supplier may terminate the Contract with immediate effect by written notice.

11.3 Termination on Notice: Either Party may terminate the Contract at any time on 30 days' written notice to the other Party, upon which the Supplier shall discontinue all work on the Contract.

11.4 Court Order: The Parties acknowledge and agree that a court order will not be required to give effect to any termination of the Contract.

12. Indemnity; limitation of liability

12.1 This clause sets out the entire financial liability of each Party to the other Party arising out of or in connection with the Contract.

12.2 Each Party shall be responsible for and indemnify the other party against any direct loss or damage which a Party may suffer as a result of a breach of the Contract.

12.3 A Party shall not be liable to the other Party for any indirect or consequential loss arising out of or in connection with the Contract.

12.4 A Party's maximum liability arising out of or in connection with the Contract shall be limited to the total value of the Contract, with the exception of any liability arising out of clauses 3, 4 and 5.

13. Force Majeure

Neither Party shall be considered in default of its obligations hereunder if the performance of such obligations is delayed, hindered or prevented by Force Majeure, provided that within seven days from the start of an event or occurrence claimed as Force Majeure the Party affected by Force Majeure gives the other Party written notice of such event and the immediate steps are taken by the affected party to mitigate where possible the effects of the event or occurrence.

14. Assignment and subcontracting AVERDA may at any time assign, transfer or subcontract all or any of its rights and obligations under the Contract to any third party or agent.

15. Notices Any notice or other communication which is given by either Party to the other under the Contract shall be in writing and sent by courier at the billing address of the Supplier and the registered address of AVERDA as stated in the Purchase Order and as may be updated by either Party from time to time by written notice.

16. Waiver A waiver of any right under the Contract is only effective if it is in writing. No failure or delay by a Party in exercising any right under this Contract or by law shall constitute a waiver of that or any other right.

17. Severance If a competent authority finds that any provision or part-provision of the Contract is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

18. Third parties A person other than the Supplier and AVERDA shall not have rights under or in connection with the Contract.

19. Variation Any variation to the Contract shall only be binding when agreed in writing between AVERDA and the Supplier.

20. Governing law and jurisdiction

20.1 The Contract and/or any purchase order issued by AVERDA shall be governed by and construed in accordance with the laws of the country in which the registered office of AVERDA is located.

20.2 The Parties agree that all disputes or claims arising out of or in connection with the Contract and/or any purchase order issued by AVERDA shall be resolved by the courts of the country in which the registered office of AVERDA is located.