

## COMMERCIAL TERMS

### Delivery and shipment

- **“Buyer”** means the entity, firm or corporation to whom the quotation is addressed. Gardner Denver S.R.L. a company organized under the laws of Italy having its registered address at Strada Provinciale Cassanese, 108, Vignate, CAP 20052, Italy (**“Seller”**) together with Buyer are referred as (**“Parties”**). Seller will deliver the goods and the related services specified in Buyer's order (an **“Order”**) that has been accepted, in all its term, by the Seller within a reasonable time. Every Order shall be signed by the Buyer's legal representative and shall include express reference to the application of these general conditions, provided that the Buyer acknowledges and accepts that every Order between the Seller and the Buyer will be subject to, and governed by, these general conditions, irrespective of such general conditions (or any other general conditions and conditions of the Buyer) being expressly referred to in any such Order. All the deliveries are meant to be on FCA basis, Seller's facility (Incoterms® 2020 Rules).
- **“Time is of the essence”** will not apply to delivery dates set out in the Order. In relation to each Order, the Seller will notify to the Buyer, subject to a 5-day prior notice, the date from when the goods are ready for delivery, and such date will be the binding delivery term for the purposes of the Order.
- Delays in shipments or suspension of any Orders require Seller's written consent, and if given, Buyer must pay to the Seller any costs, expenses and losses incurred by the Seller caused by the delay and/or suspension.
- Suspension by Buyer should not affect any invoicing schedule/payment milestones agreed for the Order. Any impact of the suspension on the delivery dates and/or on the cost of the Order execution by Seller will be mutually agreed in writing between the Buyer and Seller before the Order is resumed.
- If Buyer does not accept delivery when tendered, Buyer will nonetheless pay the Order price for the goods and Seller will store the goods at Buyer's cost for a reasonable period as specified by the Seller or agreed with the Buyer. Unless otherwise agreed by the Parties, at the end of the specified or agreed storage period, delivery of the goods will be deemed accepted by the Buyer. Notwithstanding such storage, risk in the goods will pass to the Buyer on the original designated delivery date and Buyer will bear the risk of loss or damage of the goods during storage and maintain adequate insurance covering the goods while in storage. Should the Buyer not collect the goods within the end of the specified or agreed period, the Seller shall be entitled to freely dispose of the goods (including reselling), and the Buyer waives any claim or demand towards the Seller in relation to such disposal.

**Price Adjustments:** If, in accordance with the agreement between the parties regarding the goods or services, including these terms and conditions, (**“Agreement”**), delivery is rendered more than four weeks after conclusion of the Agreement, and an unforeseeable event occurs between conclusion of the Agreement and delivery which leads to a change in any raw material costs (e.g. Steel, Copper, Aluminium) or costs for freight and logistics above 10 %, Seller may adjust the price proportionally to such change according to its equitable discretion. An increase in the price shall be possible and a reduction in the price shall be made if any of the foregoing cost elements increase or decrease. Increases in one cost element (e.g. freight costs) may only be used to increase the price to the extent that such increases are not compensated by decreases in costs in other areas (e.g. raw material costs). In the event of cost reductions (e.g. raw material costs), the price shall be reduced by Seller insofar as these cost reductions are not fully or partially offset by increases in other areas (e.g. freight costs). In exercising its reasonable discretion, Seller shall consider that cost reductions are not taken into account according to standards that are less

favorable for Buyer than cost increases. Seller shall inform Buyer of any price adjustments without undue delay. Insofar as Buyer cannot reasonably be expected to accept the delivery as a result of a price increase, it may withdraw from the Agreement with immediate effect by giving notice to Seller.

#### Acceptance of the goods

The Buyer shall inspect the goods promptly following receipt using the outmost diligence and care. If the goods are defective the Buyer must promptly, and in any case under penalty of forfeiture within the term of thirty (30) days from the receipt of the goods, notify the Seller in writing. Without limiting the foregoing, the Buyer shall be responsible for carrying out any inspection tests and shall bear any costs of doing so. In case the Buyer timely notifies to the Seller the defects, the Seller shall repair or replace the defective goods, in Seller's sole and absolute discretion, in accordance with article 3) (Warranty) below.



**Title and risk of loss:** Risk in the goods will pass to Buyer from the moment of their delivery (FCA) from Seller's facility (Incoterms® 2020 Rules), save for what provided under above in case of delay in the collection of goods attributable to the Buyer.

The ownership and title to goods will be transferred to the Buyer upon the Buyer's exact fulfilment of its payment and collection obligations towards Friulair under the Order (provided all risks will pass on to the Buyer as per paragraph above).



#### Termination

- In the case where the goods are being designed or adapted to the Buyer's specific requirements, then the Buyer shall (subject to the last paragraph of this section (**“Termination”**)) be entitled to withdraw from the Order (or to terminate the Order) only by agreement in writing by the parties and upon payment to the Seller of such amount as may be necessary to indemnify the Seller against all loss and expense resulting from such withdrawal or termination.
- In the case where the goods are not being designed or adapted to the Buyer's specific requirements, then the Buyer may, prior to shipment, withdraw from or terminate the Order without cause, in whole or in part, upon notice to Seller. In such case, Buyer will pay to Seller a termination fee equal to a pro rata portion of the purchase price based on the work completed to date.
- The Seller shall be entitled forthwith to terminate the Order in the event of non-payment (in whole or in part) of the purchase price by Buyer to Seller by the due date.
- Either party may, if it becomes apparent after conclusion of the Order that the claim for payment of the purchase price/delivery is jeopardized by the other party's lack of ability to perform (e.g. by filing for insolvency proceedings), refuse performance and – if necessary, after setting a time limit – withdraw from the Order in accordance with the statutory provisions.
- In the event of withdrawal from or termination of the Order, the Buyer shall be liable to the Seller for all the costs and expenses which the Seller incurred up until the date of such withdrawal or termination and for the profit the Seller reasonably expected to make on the Order had the Order been fully performed, less such net sum (if any) as the Seller is able to make in disposing of the goods which are the subject of the Order.

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### Credit terms and taxes

#### Credit terms and financial condition



- Payment is due net-30 days from the invoice date. All invoices must be paid in full and Buyer may not set-off any amount against what is owed by Seller.
- Buyer shall be liable for default interest on any late payments calculated according to the rate in force pursuant to D. Lgs. 231/2002 and its subsequent amendments starting from the first day of delay. Any such interest shall accrue automatically after

the expiry date of payment without the necessity of a specific demand by the Seller.

- Seller may charge Buyer for all expenses associated with collection of overdue amounts, including reasonable attorneys' fees; in case of non-payment, Seller may (without prejudice to its other rights under applicable laws) suspend performance of the Order and, if the delay exceeds ninety (90) days, automatically terminate the Order pursuant to article 1456 of the Italian civil code.



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**Taxes:** Seller's quoted prices do not include any sales, VAT, use, occupation, license, excise or other taxes, permits or fees with respect to the sale, delivery or use of the goods or services. Buyer is responsible for payment of all such taxes, permits and fees except to the extent Buyer provides a valid tax exemption certificate.

If the sale is invoiced with 0 % VAT and the Buyer is responsible for the transport from Seller facility to abroad, it is Buyer's obligation to ensure that it will have all documentary evidence/proof required by VAT law to prove the sale was eligible for 0 % VAT and the Buyer will keep/archive the documentary evidence for 10 years/tax statute of limitation.

The Buyer is obliged to send Seller the documents regularly/in case of tax audit on Seller's request. If the supplied documents are incorrect, not provided at all or circumstances influencing VAT obligations appear which were not known by Seller at the time of the contract or order resulting in a situation that Seller will be imposed sanctions (VAT, interests, penalties) by the tax or customs authorities then Seller is entitled to claim a full compensation from the Buyer if the situation was caused by Buyer's action or inaction.

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## WARRANTY



Except as otherwise agreed by Seller in writing, Seller warrants that the goods and services provided by it will be free from defects in material and workmanship for the duration of the following warranty periods: (A) for new equipment (i) a period of twelve (12) months from commissioning or start-up or (ii) eighteen (18) months from shipment, whichever occurs first; (B) for parts, six (6) months from the date of shipment; and (C) for services, six (6) months from the date of installation, inclusive of transportation and installation time if installed by Seller or six (6) months from the date of delivery exclusive of transportation and installation time if not installed by Seller.

Equipment or parts manufactured by others are warranted only to the extent of the original manufacturer's warranty to Seller, as notified to Buyer. The sole and exclusive remedy of the Buyer for any defect not detectable upon receipt shall be the repair or replacement of the defective goods, in Seller's sole and absolute discretion, and in relation to services the reperformance, subject to any mandatory provision to the contrary under applicable law. **Seller expressly disclaims all other terms, warranties or conditions whether express or implied or incorporated into these terms by law or otherwise, to the fullest extent permitted by law and this includes, but is not limited to, any implied conditions, warranties or other terms as to the merchantability, fitness for a particular purpose or use of reasonable skill and care.**

Seller shall not be held liable for failure to comply with the warranty above in the event of:

- defect in the goods or services arising from any drawing design specification or other information supplied by Buyer;
- defect arising from fair wear and tear;
- willful damage, negligence, abnormal working conditions;
- failure to follow Seller's instructions or advice; or
- misuse or alteration or repair of the goods without Seller's authorization.

Seller is not responsible for (including any costs involved) and does not provide support for any of the following:

- lifting equipment and ensuring that there is easy access to the goods;
- undertaking any civil works related to the goods or their installation; or
- the installation and removal of the goods by or on behalf of the Buyer.

## OUR LIABILITIES

**Limitation of liability:** Seller shall not be liable to Buyer, to the maximum extent permitted by applicable laws, for: (i) any indirect, consequential, special, exemplary, or punitive damages whether arising in contract, tort (including negligence), strict liability or otherwise; or (ii) loss of profits, loss of goodwill, loss of business opportunity, loss of data or loss of revenue whether arising in contract, tort (including negligence), strict liability or otherwise. Except in cases of willful misconduct (*dolo*) or gross negligence (*colpa grave*), Seller's total liability to Buyer under or in connection with an Order shall in no event exceed the total amount paid by Buyer to Seller under the Order. These limitations and exclusions of liability do not apply to Seller's liability to Buyer for claims or losses directly relating to Seller's actual infringement of a third party's intellectual property rights; or where such liability cannot otherwise be excluded by law.



**Insurance:** Seller will maintain in force the insurance coverage described in the certificate of insurance provided to Buyer.



**Force majeure:** Neither Party will be liable for failing to perform or delay in performance of any obligation in the Order or these general conditions resulting from circumstances beyond the affected Party's reasonable control that prevent the latter to perform its contractual obligations and were unforeseeable at the time the relevant obligation has arisen. However, this clause will not excuse the payment of any sums due to the Seller by the Buyer under any Order.

**Fluctuation costs:** In case of economic situation leading to significant fluctuations that have an increase impact of more than two percent (2%) on the agreed prices and/or delivery times of raw materials and freight and logistics' costs, if Seller suffers (or will suffer) delay and/ or incurs additional costs and delay as a result of such raw materials, freight and logistic costs fluctuation then Seller will be entitled to an adjustment to the price and/or an extension of time. Such adjustment will be communicated to Buyer by written notice at the latest thirty (30) days before shipment.

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## CONFIDENTIALITY & DATA PRIVACY




### Data privacy

- "Data Protection Legislation" means the Regulation (EU) 2016/679 ("GDPR") and Legislative Decree 196/2003 as amended by Legislative Decree 101/18.
- Buyer understands that the goods may include technology that allows Seller to collect information regarding such goods and conduct remote diagnostic testing of such goods.
- Buyer grants Seller a transferable, sub-licensable, non-exclusive, non-revocable, worldwide right to access and use the data collected by this technology for Seller's business purposes. Seller may share such data with its affiliates, subsidiaries, and third parties.
- If Seller receives individually identifiable personal information from Buyer through such technology, it is agreed that the Seller will be an independent controller and will take reasonable steps to protect the confidentiality of such information and prohibit the unlawful disclosure of Buyer's personal information to third

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parties. The Buyer must ensure that it has permission to share the personal data of any individuals with Seller and that it has a valid and lawful basis for doing so, as required under the Data Protection Legislation. To the extent the parties process personal data in the context of the performance of the agreement, Seller and Buyer agree to comply with the Data Protection Legislation and to process personal data only for the purposes it was provided to them. Details about the processing of personal data by Seller are described in Seller's privacy policy, an up-to-date version of which is available under <https://company.ingersollrand.com/privacy-policy.html>. The Buyer undertakes to ensure the relevant data subjects, whose data is being provided to the Seller, are aware of the Seller's privacy policy.

-  **Confidentiality:** Each party undertakes that it will not disclose to third parties nor use for its own purposes any confidential information or trade secrets of the other party. Each party may disclose the other party's confidential information: (i) to its employees, officers or other representatives or advisers who need to know such information for the purpose of exercising the party's rights or carrying out its obligations (provided that each party ensures that such third parties comply with this clause); and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

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## ENGINEERING MATTERS & IP RIGHTS



### Buyer Representations

- Buyer represents to Seller that: 1. Buyer has provided, and will promptly provide, all the information reasonably necessary to enable Seller to evaluate the requirements for performing the agreement and to perform the agreement, and that all such information is full and accurate; 2. all premises, plant, engineering support, spare parts, connected pipe work and machinery and inputs that it is required to provide for the design, engineering, installation, testing and use of the goods are fit for their purpose and of good engineering quality; 3. Buyer will fully co-operate with Seller in the design, engineering, installation, testing and use of the goods; 4. Buyer will only use the goods for their intended purpose and only and in accordance with the applicable product literature; and 5. Buyer will not use any unapproved spare part, connected machinery, service or repair or use the goods in any manner as may render the goods dangerous.
- Buyer agrees that any breach of these representations will negate all Seller warranties and all obligations of Seller with respect to the quality of the goods.
- Buyer agrees that it will be liable to Seller for any costs, expenses, and losses the Seller incurs due to any breach of these representations by the Buyer.



**IP rights and infringements:** Any intellectual property rights in inventions, modifications, improvements, techniques, or know-how affecting the goods, whether arising prior to the Order, or made or gained in the course of performing the Order, will belong to Seller. Seller will have no liability to Buyer for any patent, trademark or copyright infringements based on any designs, plans or other information provided to Seller by Buyer.

All documents prepared by Seller as a deliverable of the Order will be provided to the Buyer with a limited right to use, including make copies of such documents as is reasonably necessary, for the installation, maintenance and operation of the goods or services, however, nothing in the section transfers to the Buyer any of the Seller's underlying intellectual property rights including the right to make the goods or have the goods made.

## COMPLIANCE WITH LAWS



**Seller will comply** with all legal obligations applicable to the supply of goods. Seller assumes no responsibility for compliance with any laws or regulations applicable to the use, installation and operation of the equipment or any other matters the Seller does not control.

Buyer will not, directly or indirectly, export, re-export, transfer or re-transfer any goods or technical data received from Seller to any destination, persons or territories prohibited by the export laws rules and regulations ("**Regulations**") of the United States of America, European Union, United Kingdom Of Great Britain and Northern Ireland or other applicable Regulations or to any country that Seller does not support according to the Seller's Trade Compliance policy. Buyer shall not: i) sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any good supplies under or in connection with these general conditions or the Order that fall under the scope of any of the export restrictions to the Russian Federation provided for by Regulation (EU) 833/2014; ii) sell, export or re-export, directly or indirectly, to Belarus or for use in Belarus any goods supplied under or in connection with these general conditions or the Order that fall under the scope of any of the export restrictions to Belarus provided for by Regulation (EC) No 765/2006; iii) sell, export or re-export, directly or indirectly, to Ukraine's Donetsk, Luhansk, Zaporizhzhia and Kherson regions, as well as to Crimea and Sevastopol, or for use in Ukraine's Donetsk, Luhansk, Zaporizhzhia and Kherson regions, as well as for use in Crimea and Sevastopol, any goods supplied under or in connection with these general conditions or the Order that fall under the scope of any of the export restrictions to Ukraine's Donetsk, Luhansk, Zaporizhzhia and Kherson regions provided for by Regulation (EU) 2022/263 and/or under the scope of any of the export restrictions to Crimea and Sevastopol provided for in Regulation (EU) 692/2014; and iv) sell, export or re-export, directly or indirectly, to any country subject to EU sanctions or for use in a EU sanctioned country, any goods supplied under or in connection with every Order that fall under the scope of any of the export restrictions to sanctioned country provided by EU law, as applicable from time to time.

Buyer also shall undertake its best efforts to ensure the purpose of points i) through iv) is not frustrated by any third parties further down the commercial chain and it shall set up and maintain any adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain that would frustrate the purpose of points i) through iv).

Seller will provide a list of the Prohibited and Restricted Countries to the Buyer on request. Seller reserves the right to amend its Trade Compliance policy at any time.

At the Seller's discretion, Buyer shall provide a completed end-user statement on a format provided by the Seller and will keep Seller updated of any changes that may impact this document during the execution of the contract.

Any violation of the above shall constitute a material breach of these general conditions of sale, and the Seller shall be entitled to seek appropriate remedies, including, but not limited to: (i) termination of the Orders; and (ii) a penalty equal to the amount of the price of the exported Products.

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## OTHER TERMS



**Complete Agreement:** These general conditions of sale and the Order contain the entire understanding between the Parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, and if there is any conflict between terms of the Order and these general conditions of sale, these general conditions of sale will control.

**Changes:** Any amendments to the Order must be agreed to in writing by the Parties.



**Governing Law:** The Order and these general conditions of sale and any dispute or claim (including non-contractual disputes or

claims) arising out of or in connection with them or their subject matter or formation will be governed by and construed in accordance with the laws of Italy excluding any conflict of law provisions. **The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Order or to these general conditions of sale.**

The Parties irrevocably agree that the courts of Milan shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Order or these general conditions of sale or their subject matter or formation.

**Assignment:** A Party cannot assign all or any portion of these general conditions of sale or of the Order without the prior written consent of the other Party.

**Language:** This document is concluded in English and Italian version. In case of discrepancies, the English version shall prevail.

**Third Party Rights:** The Parties do not intend that any term of the Order is enforceable by a person who is not a party to the Order and the consent of any person who is not a party shall not be required for the amendment, variation, rescission or termination of the Order.

Pursuant to Articles 1341 and 1342 of the Italian civil code, the Buyer expressly declares to acknowledge and accept the content of the following articles of these general conditions of sale: 1 (*Commercial Terms*), 2 (*Credit Terms and Taxes*), 3 (*Warranty*), 4 (*Our Liabilities*), 8 (*Other Terms*).

Place and Date \_\_\_\_\_

For acceptance

Buyer's signature

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