



## **Vendor Purchase Order – Terms and Conditions**

### **1. Entire Agreement**

ORDERS FROM ALLIED CLIMATE TECHNOLOGY LLC (“ACT”, “Purchaser”) ARE EXPRESSLY CONDITIONED ON VENDOR’S ASSENT TO ALL OF THE FOLLOWING STANDARD TERMS AND CONDITIONS OF PURCHASE. Any additional or different terms or conditions which appear in any communication or printed form from Vendor are hereby objected to and shall not be effective or binding unless specifically recognized and assented to in writing by Purchaser. Any objection by Vendor to the terms and conditions hereof shall be ineffective unless Purchaser is advised in writing thereof within ten (10) days of the date of the applicable purchase order(s).

### **2. Vendor Responsibility**

Vendor shall be responsible for payment of all charges for handling, packaging, wrapping, containers, and related matters unless Purchaser has expressly assumed such obligation in writing. Material must be packaged to prevent damage in transit.

### **3. Delivery**

Time is of the essence, and the order may be terminated if delivery is not made on dates specified on the purchase order(s). Unless otherwise specified on the purchase order(s), delivery shall be no earlier than 5 business days before the date specified on the purchase order. No change in the scheduled delivery date will be permitted without Purchaser’s prior written consent. No receipt or acceptance of goods or services after the scheduled delivery date shall waive Purchaser’s rights with respect to such late delivery, nor shall such receipt or acceptance be deemed a waiver of future compliance with the terms hereof.

### **4. Partial Shipments**

Vendor shall notify Purchaser immediately if it is unable to ship the complete order business 5 day prior to contractual specified date. No partial shipments will be accepted without Purchaser’s prior written approval.

### **5. Cancellation**

Purchaser has the right to cancel this order, in whole or part, at any time prior to acceptance, if Vendor cannot comply with all of the terms and conditions of the purchase order(s). If Purchaser cancels this order prior to acceptance, Purchaser shall owe no payment or duty to Vendor under the purchase order(s).

### **6. Acceptance**

All goods and services purchased are subject to Purchaser’s inspection and approval prior to acceptance. Goods rejected by Purchaser for whatever reason shall be held, transported and/or stored at Vendor’s sole expense. Vendor shall promptly reimburse Purchaser for any such expenses which Purchaser has advanced on Vendor’s behalf. Vendor must notify Purchaser of any known nonconformities prior to shipment and Purchaser must give its written consent before shipment of nonconforming items.

## **7. Risk of loss**

Any risk of loss associated with the goods purchased remains with the Vendor until the time of acceptance of the goods by the Purchaser at the place of delivery, after Purchaser's reasonable inspection has been completed and in accordance with the terms of Paragraph 6.

## **8. Warranties**

Vendor warrants that Purchaser's purchase, resale, and/or use of the goods covered hereby will not result in any claim of infringement, or actual infringement, of any patent, trademark, copy right, franchise or other intellectual property right. Vendor further warrants that the goods and services supplied will conform to the specifications and descriptions stated or referred to on the purchase order(s) or otherwise furnished by Purchaser; be merchantable and fit for the particular purposes for which such goods are ordinarily employed; and be free of defects in materials and workmanship, which warranties shall survive Purchaser's resale or other transfer of the goods. Vendor further warrants that it has good and marketable title to the goods and that the goods are free and clear of all liens, claims and encumbrances.

## **9. Indemnification**

Vendor shall indemnify and hold Purchaser harmless from and against all claims, losses, expenses (including without limitation, reasonable attorneys' and other professional fees), damages (including consequential and incidental damages), causes of action and liabilities of every kind and nature arising from or out of any alleged breach of any of Vendor's obligations or warranties or from other acts or omissions of Vendor, its officers, agents, employees or subcontractors, including but not by way of limitation, product liability actions instituted by persons who purchase from Purchaser or by remote purchasers.

## **10. Payment**

The prices of the goods and services covered by purchase order(s) shall, unless otherwise noted, include all federal, state and other taxes. Vendor shall state its delivery, payment and discount terms on its invoices. Discount period shall begin from the date Purchaser receives invoices or merchandise, whichever arrives last. Delay caused by correction of errors and omissions shall extend the discount period and shall justify Purchaser's withholding of full or partial payment without loss of cash discount. Purchaser shall have the right to set-off against any amounts which may become payable by Purchaser to Vendor under the purchaser order(s) or otherwise, any amounts which Vendor may owe to Purchaser, whether arising under the purchaser order(s) or otherwise.

## **11. Standards**

If a brand, industry standard, or material specification is stated in the purchase order(s), the goods must meet the standards for quality, performance, and use therefor. If applicable, accurate test reports must accompany material. All material and/or outside processing shall meet the latest specification revision unless otherwise noted. Product identification must be maintained at all times. If Vendor desires to substitute a product it must obtain Purchaser's prior written consent. If Purchaser elects to accept substituted conforming goods, the goods may be rejected if later determined to be nonconforming.

## **12. Compliance with Laws**

In the performance of purchase order(s), Vendor shall strictly comply with all applicable laws, ordinances, rules and regulations and, upon request by Purchaser, Vendor shall furnish such evidence of compliance as Purchaser may require at any time. Without limiting the generality of the foregoing, Vendor shall strictly comply with all applicable laws, ordinances, orders, rules and regulations relating to rates of wages, hours of labor, prices and other matters, which may be binding upon Vendor or Purchaser in connection with any work or contract for or

in connection with the merchandise, work or services to be furnished by Vendor hereunder. Unless the order is exempted by applicable rule or regulation, Paragraphs 1 through 7 of the nondiscriminatory provisions of Section 202 of the Executive Order 11246 of September 24, 1965, as amended, are hereby incorporated herein by this reference and applicable to such order(s). Vendor hereby agrees to indemnify, defend and hold Purchaser harmless for any and all costs incurred by Purchaser, directly or indirectly, including without limitation, reasonable attorneys' and other professional fees, by any failure of Vendor to comply fully with the requirements of any applicable law, rule, regulation, or order.

### **13. Assignment**

Orders shall not be assigned, transferred or subcontracted in whole or in part by Vendor, by operation of law or otherwise, without Purchaser's prior written consent. If written consent is given, the Vendor must provide such subcontractor with all requirements of the purchase order(s), including key characteristics where applicable, to the subcontractor.

### **14. Termination**

Orders may be terminated by Purchaser if Vendor becomes insolvent, makes an assignment for the benefits of creditors, is subject to any proceeding in bankruptcy, or if a receiver is appointed, or if Vendor fails to pay when due any charge for labor, materials, or services incurred in connection with such order(s); or if Vendor otherwise breaches its obligations, warranties or covenants hereunder. No such termination shall waive any other remedies Purchaser may have with respect to Vendor.

### **15. Modification**

Purchase order(s), all of which are subject to these terms and conditions, shall constitute the entire agreement between the parties relating to its subject matter. No modification or waiver of any term hereof shall be effective unless made in writing and signed by authorized representatives of both Purchaser and Vendor.

### **16. Applicable Law**

Orders shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, and venue in any action brought hereunder may be laid in or transferred to the state or federal courts of the Commonwealth of Pennsylvania. If Purchaser retains an attorney to enforce any term, condition or covenant hereof, or to recover damages from Vendor for an alleged breach of any such term, condition or covenant, or if Vendor commences suit against Purchaser for any alleged breach of this contract and is not successful in such action, then Vendor shall pay Purchaser's reasonable attorneys' fees and expenses at both trial and appellate levels in connection therewith.

### **17. Proprietary Information**

Vendor agrees that all information contained in the drawings, blueprints, specifications and other documents submitted by Purchaser to Vendor hereunder is exclusively proprietary to Purchaser and shall be returned to Purchaser upon completion, expiration, or termination of this Purchase Order. Vendor shall keep all such information strictly confidential. Vendor shall not, without Purchaser's prior written consent, use such information in whole or in part for its own benefit or to Purchaser's detriment or disclose such information in whole or in part to any other person.

### **18. Notice**

Any written notice required to be sent to Purchaser pursuant to these terms and conditions shall be sent to Purchaser at the following address: Allied Climate Technology 715 Willow Springs Lane, York, PA 17406. Any written notice required to be sent to Vendor pursuant to these terms and conditions shall be sent to the Vendor's address as listed on the purchase order.

**19. Waiver**

Purchaser's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or Purchaser's waiver of any breach hereunder shall not thereafter waive any other terms, conditions, privileges or breaches whether or not of the same or similar type.

**20. Remedies**

All rights and remedies of Purchaser set out in the purchase order(s) are cumulative and are in addition to any remedies provided at law or equity.

**21. Notification of Nonconformities**

The provider/supplier shall notify the Purchaser of any nonconforming processes, products or services and obtain approval for their disposition in writing prior to the release to the Purchaser.