



**Mike Levine**  
Bulk Specialist  
Airgas Mid-South Region  
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July 13, 2023

City of Clinton, DBA Clinton Regional Hospital  
100 N 30th St.  
Clinton, OK 73601

Attn: Reva Burton & Mike Thomasson

Thank you for the opportunity to submit this proposal for your Bulk Oxygen medical gas requirements. The installation of the supply system is based on the following:



**Design Basis**

- Product: Bulk Oxygen
- Product Grade: Medical (USP)
- Gas supply
- Location Address: **100 N 30th St., Clinton, OK 73601**
- Parameters provided by customer's planned volumes:
  - Monthly Oxygen Volume: 60,000 SCF
  - Average Oxygen Flow Rate: 83 SCFH
  - Customer Delivery Pressure: 52 PSI
  - Operating Conditions: 24 hours/day, 7 days/week
  - Outdoor Installation

**Assumptions**

- No orientation or site specific training required.
- Site is accessible for standard equipment, including forklifts and cranes.
- Copper tubing (standard pressure system), stainless steel piping with compression fittings (high pressure systems), brass/bronze valves, and aluminum vaporizers are acceptable.
- Customer to pipe up to the battery limit of the system.
- Installation will take place Monday-Friday, 8am-5pm.
- Ability to tie in to process piping using temporary supply.

**CONFIDENTIALITY STATEMENT**

The information contained herein, including but not limited to, contractual proposals, costs, commercial summaries, engineering drawings and technical data, is the confidential and proprietary information of Airgas, Inc. The information is supplied on condition that it is used for the project under consideration. No part of this proposal may be disclosed, copied, reproduced or distributed in any fashion or form to any third party without the prior written approval of Airgas.



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**Pricing**

The following pricing is based upon a Vizient GPO standard 5 year Product Supply Agreement which outlines the specific terms and conditions in addition to the pricing below:

Bulk Oxygen Product	\$1.09/CCF
1,500 Gallon Bulk Tank	\$1,700.00/Month
12 Cylinder HP Reserve	Included in the above
Telemetry Fee	\$75/MO/Vessel
Delivery Fee	\$90.00/Delivery
Hazmat Fee	\$30.00/Delivery
MARC Charge	\$30.00/Delivery

**Terms and Conditions**

**The prices quoted are valid for 30 days from the date of this letter.**

**This quote is contingent on safe site placement and design basis contained herein as well as approval of the delivery site by our operations safety team and review/approval of the current piping system.**

**Engineering and installation support will begin upon signing of the Product Supply Agreement.**

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#### **Airgas Responsibilities**

- Provide supply system and labor to install the system per Airgas drawing.
- Install all equipment per NFPA 55 & NFPA 99 Standard for the storage, use, and handling compressed gases and cryogenic fluids in portable and stationary containers, cylinders and tanks.
- Provide specific locations for terminations of utilities, provided by customer, including but not limited to; power, and process piping.
- Provide vendors/contractors accepted by Airgas for portions of the installation that are outsourced and in the Airgas scope.
- Pneumatic Pressure test of all Airgas system piping per ASME B31.3, excludes bulk vessels, vaporizers and sub-assemblies previously pressure tested by vendor.

#### **City of Clinton, DBA Clinton Regional Hospital Responsibilities**

- Provide adequate foundation as per specifications supplied by Airgas to support equipment.
- Provide adequate piping as per specifications supplied by Airgas to the pad boundary.
- Obtain all applicable permits and licenses.
- If needed, provide Airgas with engineered details including customer owned specifications and process & instrument diagram of system to be installed.
- Provide utilities required, terminated at points specified by Airgas.
- Ensure proper grounding (if applicable) of the system per Airgas specifications.
- Ensure that all appropriate alarm terminations are at the pad boundary and can be connected by your electrician to the alarm panel and from the vessel(s) local signal to the alarm panel on the new system.
- Provide area and access for installation of equipment, including personnel, trucks and cranes.
- Provide secure site (fencing) including bollards with adequate lighting for night time maintenance and deliveries.
- Provide 24 hour access to equipment.
- Provide appropriate access for all Airgas delivery trucks 24/7.
- Provide any/all inspectors required by Authority Having Jurisdiction, permit, or internal standards.
- Provide any request for additional certifications required on deliveries and equipment, prior to start of project and final budget acceptance.
- Any site specific requirements in conflict with Airgas scope.

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## PRODUCT SALE AGREEMENT

Airgas USA, LLC, with offices at 31 N. Peoria Ave., Tulsa, OK 74120 ("Seller"), and City of Clinton, DBA, Clinton Regional Hospital, with offices at 100 N 30<sup>th</sup> St., Clinton, OK 73601 ("Buyer"), for and in consideration of the mutual promises and covenants set forth herein and intending to be legally bound thereby, agree as follows:

- 1. REQUIREMENTS:** (a) Buyer shall buy from Seller, and Seller shall sell to Buyer, Buyer's total present and future requirements of industrial, specialty, and/or medical gases, in gaseous and/or liquid form ("Product(s)"). Products shall be for Buyer's use at listed location(s) and at any relocated, expanded, or new Buyer location(s) (collectively, "Buyer Locations"), in suitable containers including, without limitation, cylinders, liquid containers and/or bulk (including mini and micro bulk), and including on-site generation equipment, upon the terms and conditions set forth in this Agreement, including, without limitation, any rider, exhibit or amendment to this Agreement. The Products covered by this Agreement shall also include Buyer's requirements of (i) welding consumables and equipment, safety products and services, and related supplies as may be designated in any rider, exhibit or amendment hereto, (ii) dry ice as may be designated in any rider or amendment hereto and (iii) any products used by Buyer in substitution for any of the Products described herein. (b) The Products shall be for Buyer's own use, and not for resale, unless the parties execute a resale addendum. Buyer shall not transfill Products from any gas or liquid storage vessels or other equipment ("Equipment") or cylinders provided by Seller into other containers unless the parties execute a transfill addendum.
- 2. TERM:** This Agreement shall be effective as of July 13, 2023 ("Effective Date"). The initial term shall be five years ("Initial Term") measured from the latest of (a) the Effective Date, (b) the first day of the month following the date of first delivery of Product by Seller hereunder to the last storage vessel installed at any Buyer Location, or (c) in the event Buyer is contractually bound and prohibited from buying Products under this Agreement by any prior agreement, the date of the earliest expiration or earlier termination of such prior agreement. Thereafter, this Agreement shall automatically renew for successive renewal terms (a "Renewal Term") equal in length to the Initial Term unless terminated at the end of (i) the Initial Term or (ii) any Renewal Term, as the case may be, upon not less than twelve months' prior written notice by either party, given in accordance with Section 23 herein. The Initial Term and any Renewal Terms shall be the "Term". If any Equipment is modified, relocated, replaced, substituted or Seller provides additional Equipment to meet Buyer's gas requirements, then a new Term equal in length to the Initial Term shall commence upon the first day of the month following the date of first delivery of Product into the modified, relocated, replacement, substituted or additional Equipment.
- 3. PRICING AND PAYMENT TERMS:** The Product prices, Rental Fees and Facility Fees (which are referred to individually and collectively as the "Price(s)") are set forth on riders to this Agreement. Buyer shall make payment in full by cash, check, wire transfer or CTX formatted ACH by the thirtieth day following the date of invoice. Continued open account credit is subject to Seller's assessment of Buyer's financial condition and ability to pay. In the event Buyer fails to make any payment when and as due, Seller may, at Seller's option, exercise any one or more of the following (in addition to any other remedies available to Seller): (a) cease all Product deliveries; (b) require Buyer, as a condition of receiving deliveries, to prepay for such deliveries and pay past due amounts as specified by Seller; (c) collect from Buyer on any delinquent balance interest at the rate of one and one-half percent per month or, if less, the maximum rate permitted by law; and/or (d) remove any Equipment, cylinders and/or other containers provided by Seller and terminate, in whole or in part, this Agreement.
- 4. CHARGES:** Buyer shall pay (a) Seller's itemized charges set forth in this Agreement, including, without limitation, any rider, exhibit or amendment to this Agreement and (b) any surcharges that Seller may assess due to (i) extraordinary, emergency or other unanticipated increases in the cost of manufacturing, purchasing, supplying or distributing Product and/or (ii) Product shortages (collectively, "Charges"). Charges are not subject to Section 19 and may be amended or others may be added at Seller's discretion. None of the Charges represents a tax or fee paid to or imposed by any governmental authority, and all of the Charges are retained by Seller. Seller may not have specifically quantified the relationship between such Charges and the actual costs associated with such Charges, which can vary by Product, service, time and place, among other things.
- 5. RENTAL/FACILITY FEES:** Seller shall monitor cylinder deliveries and returns hereunder and shall charge Buyer rental at the rates in the attached rider ("Rental Fee"). Each invoice for Rental Fees will show a number of cylinders outstanding as of the date of such invoice. The balance shown on any such invoice shall be deemed correct and conclusive unless Buyer submits a notice of dispute in writing to Seller within ninety-five days after the date of such invoice. Buyer shall continue to pay Rental Fees on all cylinders until (i) such cylinders have been returned to Seller or (ii) payment has been made with respect to loss or damage thereto, each as in accordance with Section 6. In the event that any Equipment is installed by Seller or its representative at Buyer's facility for storage of Product, Buyer shall pay to Seller, for the availability of said Equipment for use hereunder, a fee computed by Seller for each item of Equipment so installed ("Facility Fee").
- 6. CYLINDER RETURN:** Buyer shall return, in a good and non-contaminated condition, all cylinders, with valves closed, complete with caps and fittings and shall pay Seller the replacement value of any contaminated, lost or damaged cylinders, caps or fittings. Buyer shall not permit cylinders or other storage containers furnished hereunder to be filled with any product not furnished by Seller.
- 7. BULK SITE REQUIREMENTS; ACCESS:** Buyer shall promptly furnish an accessible, secure location ("Site") for Seller's Equipment at each of its facilities at which Products are required to enable suitable delivery and storage of such Products, including all foundations, bollards, lighting, fences, pipes and other preparation and equipment required for the safe delivery and distribution of Product(s) to and from the Site. Buyer shall also provide at the Site, at Buyer's cost, all electricity or other utilities, including, if necessary, phone lines, as well as all licenses and permits required in connection with use of the Site. Buyer shall ensure that the Site at all times complies with all applicable laws, codes or regulations for the relevant jurisdiction. Buyer shall begin to pay Facility Fees in the event that Buyer is unable to provide the Site within thirty days after Seller notifies Buyer that Equipment is ready for installation. Authorized representatives of Buyer, Seller and/or Seller's representatives shall have access at all times to the Site, but Buyer shall deny access to all others.
- 8. INSTALLATION:** Equipment provided by Seller shall be installed and maintained in good repair and operation by Seller. Buyer may provide its own equipment in which event Seller shall have no obligation to maintain the same. Buyer shall have no ownership interest in the Equipment installed at the Site by Seller and shall keep same free of any and all liens or claims of any kind. Seller may execute and record in the name of both parties UCC statements evidencing Seller's ownership of the Equipment. Buyer will pay any applicable UCC statement filing Charge. Buyer shall pay Seller's freight costs for delivery of the Equipment to Buyer's Location, and Seller's crane and rigging costs associated with the Equipment installation. Buyer shall be responsible and liable for payment of, or, if Seller makes payment, shall reimburse Seller for, all costs arising out of Site conditions requiring additional labor or other costs. Seller shall not be liable for any delay in installation of any Equipment. Buyer shall maintain adequate fire and extended coverage insurance on the Equipment, with loss payable to Seller. Buyer shall not alter, adjust or repair any Equipment installed by Seller at the Site. Buyer shall be responsible for any loss of, or damage to, such Equipment unless arising as a direct result of Seller's sole negligence. Except as provided in Section 16, Buyer shall not permit

Equipment furnished hereunder to be filled with any product not furnished by Seller. Buyer shall reimburse Seller for labor, parts and materials as the result of any service call made by Seller or Seller's representative, except for the standard preventative maintenance service as defined by Seller's standard maintenance guidelines.

9. **EQUIPMENT CHANGE:** If in the sole judgment of Seller any Equipment installed by Seller shall become inadequate, including, without limitation, because of a substantial change in Buyer's requirements of Product, Seller shall have the right to substitute a different size or type of Equipment. The Facility Fee shall be appropriately adjusted by Seller to account for the substitution and Seller will provide written notice to Buyer of the new Facility Fee. This Agreement will cover all mode changes, including but not limited to: cylinders to liquid containers, liquid containers to bulk storage vessels, bulk storage vessels to on-site generation, or any combination of the preceding.

10. **REMOVAL:** (a) Seller shall have the right to remove any Equipment installed by it within ninety days after the expiration or termination of this Agreement. Buyer's obligation with respect to loss of, or damage to Equipment shall remain in full force and effect until Seller effects such removal. (b) Buyer may request Seller to remove any of its Equipment from the Site prior to the end of the Term by making a written request to Seller for Equipment removal and paying to Seller, upon the issuance of an invoice, (i) a pro-rata share of any unreimbursed costs incurred by Seller in installing such Equipment which reflects the balance of the Term of this Agreement that is unexpired as of the date of such removal and (ii) the estimated costs associated with the removal of the Equipment and shipping costs to the closest service center of Seller (collectively, "Removal Fee"). Seller will reimburse Buyer for any estimated amounts paid over actual costs following completion of the removal and shipment. No such removal shall affect Buyer's obligation to purchase its requirements for Products from Seller. (c) At the end of the Term, Buyer shall pay a Removal Fee. If Buyer fails to pay the Removal Fee when due, at Seller's option, this Agreement may be extended for a period of one year from the proposed termination date in the written notice ("Removal Term Extension"). If the Removal Fee is not paid within the Removal Term Extension, Seller shall have the option to extend this Agreement again as permitted in this Section.

11. **DELIVERIES:** (a) Bulk storage Sites shall be accessible for delivery twenty-four hours per day, seven days a week. (b) Seller or its representatives shall usually make deliveries of all other Products on regular business days between the hours of 8:00 a.m. and 5:00 p.m. or at other hours upon agreement of the parties. Buyer shall pay all additional expenses incurred by Seller as a result of deliveries at other hours or any other special delivery. (c) Deliveries made during a strike or other labor disturbance affecting Buyer shall be at Seller's sole option. If Seller does deliver during a strike or labor disturbance, then, notwithstanding anything to the contrary contained in this Agreement, Buyer assumes the entire risk and agrees to indemnify Seller from and against all costs, damages and losses arising out of any such delivery. (d) Seller may refuse to deliver Products to any Buyer Location if Seller reasonably believes that such Buyer Location or Buyer's use of the Product is unsafe or violates any applicable law or regulation, and Seller shall not be liable for such refusal to deliver. (e) Title and risk of loss of the Products shall pass to Buyer, (i) in the case of bulk Products upon delivery into the storage vessel, and (ii) for all other Products upon delivery to Buyer's Location. (f) Buyer shall monitor Product levels and give Seller reasonable, advance notice of changes in Buyer's Product volume requirements and/or patterns of use. (g) With respect to bulk Products sold hereunder, Seller may, at its sole option, but is not obligated to, make any delivery of less than seventy-five percent of the capacity of the storage vessel. If Buyer's actual volume requirement decreases below eighty-five percent or increases above one hundred and twenty percent of the Buyer provided Estimated Monthly Volumes for any given Product for three consecutive months, Seller may adjust the Price. (h) Deliveries of Products shall be measured by Seller using the method typically used by Seller for the type of delivery made. (i) No Products shall be returned to Seller without Seller's written authorization. Buyer shall pay a fifteen percent (15%) restocking Charge on all Products returned to Seller, except for returns provided for under Section 13 hereof. Notwithstanding the foregoing, certain Products, including nitrile gloves, disposable clothing, and disposable respirators are sold on a final, non-cancelable, non-returnable, non-refundable basis.

12. **WARRANTY:** Seller warrants that, at the time of delivery, all gas Products furnished hereunder will comply with Compressed Gas Association (CGA) guidelines. Any other Products sold by Seller will conform to Seller's or manufacturer's standard specifications. Seller makes no warranty with respect to non-gas Products manufactured by others, but will, on request, to the extent permitted, pass on to Buyer any applicable manufacturer's warranty. Seller warrants that the services shall be performed in a good and workmanlike manner. **SELLER SPECIFICALLY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED STANDARDS, GUARANTEES, OR WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT AND ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR USAGE. SELLER MAKES NO WARRANTIES OF ANY KIND FOR ANY TECHNICAL ADVICE PROVIDED BY SELLER TO BUYER AND ASSUMES NO OBLIGATION OR LIABILITY FOR ANY SUCH TECHNICAL ADVICE WITH REFERENCE TO THE USE OF PRODUCTS OR RESULTS WHICH MAY BE OBTAINED THEREFROM, AND ALL SUCH ADVICE IF GIVEN AND ACCEPTED IS AT BUYER'S SOLE RISK.**

13. **REMEDIES; LIMITATION OF LIABILITY: NEITHER SELLER NOR SELLER'S SUPPLIERS OF PRODUCTS ("SELLER'S SUPPLIERS") SHALL BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL AND/OR PUNITIVE DAMAGES. SELLER'S SOLE LIABILITY AND BUYER'S SOLE REMEDY FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES RESULTING FROM PRODUCTS, DELIVERY OF NON-CONFORMING PRODUCTS, SELLER'S FAILURE TO DELIVER SUCH PRODUCTS, INSTALLATION OR MAINTENANCE OF EQUIPMENT, EQUIPMENT MANUFACTURED BY SELLER, OR SERVICES PROVIDED BY SELLER SHALL BE LIMITED TO, AT SELLER'S OPTION, THE REFUND OF THE PURCHASE PRICE OR REPLACEMENT OF THE PRODUCT OR SERVICE IN QUESTION. THE LIMITATIONS CONTAINED IN THIS SECTION SHALL APPLY REGARDLESS OF WHETHER THE CLAIM FOR DAMAGES IS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT OR OTHERWISE, AND SHALL APPLY EVEN WHERE SUCH DAMAGES ARE CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE, GROSS NEGLIGENCE OR ACTS AND OMISSIONS OF THE PARTY CLAIMING DAMAGES OR THE PARTY FROM WHOM DAMAGES ARE SOUGHT. ALL CLAIMS BY BUYER HAVING ANYTHING TO DO WITH THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE MADE IN WRITING WITHIN NINETY FIVE DAYS AFTER THE EVENT GIVING RISE TO SUCH CLAIM AND FAILURE OF BUYER TO GIVE SUCH NOTICE SHALL CONSTITUTE A COMPLETE WAIVER BY BUYER OF ANY SUCH CLAIMS AND DEFENSE FOR SELLER AGAINST ANY SUCH CLAIMS. AS USED IN THIS SECTION, THE TERM "BUYER" AND "SELLER" SHALL INCLUDE NOT ONLY THE PARTY TO THIS AGREEMENT BUT ALSO ALL OF ITS AFFILIATES. THE PROVISIONS GOVERNING REMEDIES, LIMITATIONS OF LIABILITY AND INDEMNITY SET FORTH IN THIS AGREEMENT SHALL SURVIVE EXPIRATION, TERMINATION, OR CANCELLATION OF THIS AGREEMENT.**

14. **INDEMNITY:** If there is any injury (including death), loss or damage to the person or property of any third party (including employees of either party), then, subject to any limitations set forth in this Agreement, each party agrees to indemnify and defend the other party to the extent of the indemnifying party's negligence.

15. **CUSTOM ORDERS/INVENTORY:** If Seller has ordered, manufactured or had manufactured for Buyer any custom or special order goods, including, by way of example only and not limitation, specialty gas blends or mixes, customized safety goods, or specialized Equipment, the expiration or early termination of this Agreement shall not relieve Buyer of its obligation to purchase and pay for all such goods.

16. **EXCUSE OF PERFORMANCE:** Seller shall not be liable for failure to perform if prevented by circumstances beyond its reasonable control. If Seller is unable to supply Products to Buyer, then Buyer may obtain replacement products from other sources and place them in the Equipment (if any) or, in the case of all other Products, use them at Buyer's Location(s) for that period of time during which Seller is unable to supply Buyer. This right is subject to Seller's prior written consent, which shall not be unreasonably withheld. During this period Buyer shall ensure that Equipment is not damaged and shall compensate Seller if any damages occur and hold Seller harmless for damage or injury.

17. **ALLOCATION:** If sufficient Product is not available from Seller's normal source of supply for any reason, Seller may allocate Product among its own requirements and its customers. Seller will make reasonable efforts to obtain additional Product from other sources, provided Buyer shall pay all additional costs associated with such Product. Allocation in regard to this Section will completely satisfy and discharge Seller's supply obligations and Seller will, therefore, not be deemed to be in breach of such obligations.

18. **TAXES:** Prices are exclusive of any amount of federal, state and/or local excise, sales, use, property, retailer's occupation, gross receipts or similar taxes which may be imposed upon this transaction. Buyer shall pay all such taxes, including taxes on any Equipment, except Seller's income tax, either directly to the relevant taxing authority or as collected by Seller. In the event that Buyer claims exemption, full or partial, from such taxes, a properly completed exemption certificate with a list of the applicable exempt purchases, which will be acceptable to the appropriate taxing authorities, must be provided to Seller. Buyer will provide the applicable exemption certificate for each Buyer Location. Should such certificate(s) be found invalid, Buyer agrees to bear the burden of any interest and penalties assessed.

19. **PRICE CHANGES:** (a) Seller shall have the right to revise any of the Prices up to four percent in a given calendar year for any one or more of the Products by written notice to Buyer. (b) In the event that Seller increases Prices by an amount greater than eight percent in a given calendar year, such increase shall become effective fifteen days after written notice is given to Buyer. If within fifteen days of receiving such notice, Buyer furnishes Seller with a copy of a bona fide firm written offer to sell such Product of the same quantities, of the same quality under similar circumstances at prices lower than such revised Prices, Seller shall have fifteen days within which to, at Seller's sole option, either meet the lower price, exclusive of surcharges, hazmat or regulatory compliance fees, or revert to Seller's Price in effect before the price increase. If Seller agrees to meet such lower price, or reverts to Seller's Price in effect before the price increase, then Seller shall have the right, at its option, to extend the Term for a period of time equal to the Initial Term or the term of the competitive written offer. If Seller does not exercise its option to meet the competitive price or revert to Seller's previous Price, Buyer may terminate this Agreement as to the Product in question by giving Seller thirty days' written notice of such termination. (c) Buyer's rights under this Section shall not apply to any Price increase arising as a result in whole or part of increased costs to Seller or its suppliers due to federal, state, or municipal taxes, tariffs, or government agency required audits or other regulations. (d) The adjustments in Sections 4, 9, 11 and 17 are not subject to the Price Change provisions as outlined above.

20. **COMPLIANCE; SDS:** Buyer shall instruct its employees and agents to comply, and at all times Buyer shall comply, with all applicable federal, state and local statutes, regulations and laws, including without limitation any applicable anti-corruption/bribery laws and laws regarding the safe handling, transportation, purchase and use of the Products and all relevant reporting obligations under the Emergency Planning and Community Right-To-Know Act, the Occupational Safety and Health Act, and applicable regulations thereunder, and the Foreign Corrupt Practices Act of 1977, as well as any applicable licenses and consents required by such statutes, regulations, laws and regulations, which licenses and consents shall be obtained by Buyer. Buyer acknowledges and agrees that Seller has provided Buyer with all relevant Safety Data Sheets (SDS). Additional SDSs and copies are available: (i) at the local Airgas branch; (ii) by calling 919-368-8518; or (iii) by logging on to [www.airgas.com/sds-search](http://www.airgas.com/sds-search). Buyer understands that the Products must not be used without first consulting the SDS. Seller complies with its Anti-Corruption Code of Conduct available to Buyer at <https://www.airgas.com/sustainability-corporate-responsibility>.

21. **BUYER'S RESPONSIBILITIES:** Products are sold on the condition that they be handled, used and disposed of in conformance with recognized industry and professional standards, including those related to the protection of human health and the environment. Buyer acknowledges that there are hazards associated with the use of the Products, that it understands such hazards, and that it is the responsibility of Buyer to warn and protect all those exposed to such hazards. It is Buyer's responsibility to ensure that: (i) the use and/or installation of the Products complies with all applicable laws, codes or regulations for the relevant jurisdiction; (ii) the Products are safe for the intended use; and (iii) the Products are handled in a safe and professional manner. Buyer shall have the sole responsibility for determining the suitability of any of Seller's Products for the use contemplated by Buyer. After delivery of Products to Buyer pursuant to this Agreement, Buyer assumes all risk and liability arising out of the presence, storage, transport or use of the Products.

22. **GOVERNING LAW; DISPUTE RESOLUTION; CLASS ACTION AND TRIAL BY JURY WAIVER:** This Agreement shall be governed by and construed in accordance with the substantive law of the State of Delaware, without regard to its conflict of laws principles. Prior to either party filing a lawsuit, except to prevent the running of any applicable statute of limitations, all disputes and claims regarding this Agreement shall be submitted to non-binding mediation. If the parties cannot agree on a mediator, one will be selected pursuant to American Arbitration Association rules. **BOTH PARTIES HERETO HEREBY WAIVE ALL RIGHT OR ENTITLEMENT TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE THAT ARISES OUT OF OR RELATES IN ANY WAY HERETO OR TO PRODUCT SUPPLIED HEREUNDER. ANY CLAIM MUST BE BROUGHT IN THE RESPECTIVE PARTY'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, COLLECTIVE, REPRESENTATIVE, MULTIPLE PLAINTIFF, OR SIMILAR PROCEEDING ("CLASS ACTION"). THE PARTIES EXPRESSLY WAIVE ANY ABILITY TO MAINTAIN ANY CLASS ACTION IN ANY FORUM.**

23. **NOTICES:** Unless otherwise provided herein, all notices shall be in writing, addressed to the intended recipient at the address on the first page hereof or such other address as the recipient may provide, and given via the following methods: hand delivered, sent by overnight courier providing proof of delivery, or sent by email to an address provided by the recipient for such purpose, and shall be deemed to have been given on the date such notice is hand delivered or sent, as applicable. Notices of excuse of performance, allocation, adjustments to Prices or Charges (including the establishment of any surcharges) provided hereunder may also be sent by U.S. mail and shall be deemed to have been given two business days after being deposited with the U.S. Postal Service. Notwithstanding the foregoing, a notice of termination under Section 2 or 19 hereof must be given by certified mail or overnight courier providing proof of delivery.

24. **MISCELLANEOUS:** (a) Buyer represents that Buyer is contractually free to enter into this Agreement and to perform hereunder. Buyer shall indemnify and defend Seller against all damages Seller may suffer that arise out of or relate to any actual or alleged breach of the foregoing representation. (b) The invalidity or unenforceability of any provision of this Agreement under the laws of any state in which this Agreement is in effect shall not affect the validity or enforceability of any other provision of this Agreement. (c) Buyer shall not require waiver or release of any personal right or execution of any document that conflicts with this Agreement or provides for additional obligations of the parties from Seller's employees, subcontractors or representatives in connection with Seller's entry onto the premises of Buyer and Buyer agrees that no such release, waiver or document shall be binding, if executed by Seller's employee, subcontractor or representative. (d) The waiver by either party of any of its rights under this Agreement shall not be construed as constituting a precedent. (e) Buyer must receive Seller's consent to assign this Agreement. This Agreement shall inure to the benefit of Seller and Buyer and their respective successors and assigns. If Buyer transfers a material part of its assets and/or its operations at any Buyer Location or its stock to a third party, Buyer shall require the third party to accept an assignment of this Agreement, as it relates to any applicable Buyer Location or Product, in form and content acceptable to Seller. (f) This Agreement and materials marked "Confidential" will be kept confidential by Buyer. (g) Buyer represents and warrants that this Agreement has been duly and validly authorized, executed, and delivered. (h) This Agreement may be executed in counterparts, each of which shall be an original and both of which taken together shall constitute the same instrument. Transmission by facsimile, email or other form of electronic transmission of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart and legal, valid and binding execution by such party. (i) As a part of the consideration for this Agreement, the applicable provisions of Section 13 (Remedies; Limitation of Liability) shall extend to and be enforceable by and for the benefit of Seller's Suppliers. (j) This Agreement with any riders, exhibits and/or amendments represents the entire agreement between Seller and Buyer in relation to the sale of Products. Amendments to this Agreement shall be in writing and no acceptance by Seller of any purchase order, acknowledgment, or other document specifying different and/or additional terms or conditions shall be effective.

City of Clinton, DBA, Clinton Regional Hospital (Buyer)

AIRGAS USA, LLC (Seller)

Accepted By: \_\_\_\_\_

Submitted By: Rick Lawson, Dean Wilson & Mike Levine

Printed Name: \_\_\_\_\_

Accepted By: \_\_\_\_\_

Title: Authorized Representative Date: \_\_\_\_\_

Printed Name: Bob Bradshaw

Title: Mid-South Region President Date: \_\_\_\_\_



an Air Liquide company

EXHIBIT 1 OF PRODUCT SALE AGREEMENT

TO: The Product Sale Agreement ("Agreement") between Airgas USA, LLC ("Seller") and City of Clinton, DBA Clinton Regional Hospital ("Buyer") with an Effective Date of July 13, 2023.

Bulk Recurring Charges

Table with 2 columns: Description and Price. Includes Standard Delivery Charge (\$125/delivery), Standard Medical Delivery Charge (\$280/delivery), Hazmat Charge (\$70/delivery), Medical Charge (\$225/delivery), Insurance Charge (0.9%/invoice), and Fuel Charge (Variable).

Services & Miscellaneous

Table with 2 columns: Description and Price. Includes Telemetry with reorder service (\$200/month), Equipment Installation/Removal (\$\*), Equipment Preventive Maintenance (\$\*), Equipment Rental (\$\*), Equipment Repair (\$\*), EZ-Pad Portable Vessel Foundation (\$200/month), Foundation Specifications & Drawings (\$2,500 typical), Gas Sensor Calibration (\$\*), Medical Vessel Inspection (\$1,250 each), Non-Medical Vessel Inspection (\$1,000 each), On-line Subscription Service (\$50/month), Parts & Consumables (\$\*), Piping (\$\*), Project/Application Specialist (\$250/hour), Service Technician (\$150/hour), Stack Emissions Testing (\$\*), Safety Awareness Session (\$\*), and UCC-1 Filing / Account Setup Fee (\$200/transaction).

Delivery

Table with 2 columns: Description and Price. Includes Canceled Delivery or Undeliverable Site (\$500/occurrence), Delivery Vehicle Delayed at Customer (\$50/15 min. interval), Duplicate Copy of Invoice / Delivery Ticket (\$50/occurrence), Partial Delivery Request / Hot Fill Purge (\$400/delivery), Preferred Delivery Window (\$400/delivery), Proof of Delivery with Invoice (\$50/occurrence), Railcar Delay at Customer (\$100/day), Required Signature on Delivery Ticket (\$25/delivery), Rush Delivery (\$400/delivery), and Scaled Weight Documentation (\$60/delivery).

Analytical Services / Certificate of Analysis

Liquid Oxygen:

Table with 2 columns: Description and Price for Liquid Oxygen analysis.

Liquid Nitrogen:

Table with 2 columns: Description and Price for Liquid Nitrogen analysis.

Liquid CO2 Standard Analysis:

Table with 2 columns: Description and Price for Liquid CO2 Standard Analysis.

Liquid CO2 Customized Analysis:

Table with 2 columns: Description and Price for Liquid CO2 Customized Analysis.

Lot/Trailer is an analysis of a specific truck load

\*\*Add \$50 for inclusion of Moisture Analysis

Liquid Argon:

Table with 2 columns: Description and Price for Liquid Argon analysis.

Liquid Hydrogen:

Table with 2 columns: Description and Price for Liquid Hydrogen analysis.

Liquid or Gaseous Helium:

Table with 2 columns: Description and Price for Liquid or Gaseous Helium analysis.

Certificate of Analysis for FDA Regulated Products:

Table with 2 columns: Description and Price for FDA Regulated Products.

Liquid CO2 Kosher Product:

Table with 2 columns: Description and Price for Liquid CO2 Kosher Product.

\* Pricing varies based on specific customer requirements

◆ Some Services may require a separate Service Agreement. Some Services may not be available at all locations.

Initials Buyer

Initials Buyer

Initials Seller

Initials Seller



## Bulk Gases Rider

**Rider to Agreement between City of Clinton, DBA, Clinton Regional Hospital and Airgas USA, LLC, with an Effective Date of July 13, 2023**

**Buyer's Location(s): 100 N 30th St., Clinton, OK 73601**

<u>Product</u>	<u>Estimated Monthly Volume</u>	<u>Unit of Measure</u>	<u>Price/Unit</u>	<u>Equipment</u>	<u>Monthly Facility Fee</u>
Oxygen, USP	60,000 SCF	Hundred Cubic Feet/CCF	\$1.09/CCF	1,500 Gallon vessel, Vaporizer and Local Alarm Panel	\$1,700.00
				12 Cylinder, High Pressure Reserve	Included in the above

Initial Term of this Agreement Shall be for five (5) Years

As per Section 7 of the Agreement all permitting, structural engineering, site preparation, pad construction (if required), electrical (if required), fencing, vehicular protection and piping to be the responsibility of the Buyer

\*All Products not listed but purchased by Buyer from Seller under the Agreement will be priced at market level, including Facility Fees.

**ALL CHARGES BELOW ARE SUBJECT TO CHANGE WITHOUT NOTICE AND NOTWITHSTANDING ANYTHING HEREIN.**

Delivery charge is   \$90.00   Per Delivery  
 Hazmat charge is   \$30.00   Per Delivery  
 MARC charge   \$30.00   Per Delivery  
 Fuel Charge is   Variable   Per Delivery  
 Telemetry fee is   \$75.00   Per month per vessel

City of Clinton, DBA, Clinton Regional Hospital(Buyer)

AIRGAS USA, LLC (Seller)

Accepted By: \_\_\_\_\_

Submitted By: Rick Lawson, Dean Wilson & Mike Levine

Printed Name: \_\_\_\_\_

Accepted By: \_\_\_\_\_

Title: Authorized Representative Date: \_\_\_\_\_

Printed Name: Bob Bradshaw

Title: Mid-South Region President Date: \_\_\_\_\_



