

Air Liquide Healthcare - Vital360 & TPP Agreement

This Agreement (**Agreement**) sets out the terms and conditions between Air Liquide Healthcare Pty Ltd ABN 41 002 653 045 (collectively Air Liquide, we, us, our) and the customer (collectively, the Customer, you, your), being the person named in the Direct Debit Request Form. All products and services are supplied by Air Liquide in accordance with this Agreement and the Air Liquide Standard Terms of Sale (Supply Terms: Packaged Gases) available at <https://au.healthcare.airliquide.com/legal>. To the extent of any inconsistency between the Air Liquide Packaged Gas Terms and the express terms of this Agreement, the latter prevail.

1. VITAL360 "Premium Value" Plan

A. Summary of the VITAL360 "Premium Value" Plan key terms

Total Cost	\$3.00 per day (Rental Fee) plus a one-off upfront cost of the mask in the amount of \$199.00 (One-Off Fee). Total minimum cost over 6 month period: \$812.90 including GST.
Minimum Duration	6 months (Agreement Period).
Agreement Renewal	At the end of the initial 6-month term, the Agreement renews automatically for successive 6-month terms unless you give notice of termination at least 14 days prior to the end of the 6-month term then underway (Termination Period). Air Liquide will issue a written notice of the pending renewal no later than 30 days before the end of the 6-month term. This notice may be in the form of a pro forma invoice.
What's Included	<ul style="list-style-type: none"> 1 (rented) continuous positive airway pressure (PAP) machine. 1 compatible mask (with consumables set out below). Ongoing connected care monitoring (with compatible devices). PAP machine servicing (Machine Service).
What consumables are included and when are they supplied?	<ul style="list-style-type: none"> At 14 Days – 2 sets of cleaning wipes and 2 soaps. At each 6 month interval (upon renewal) – 2 sets of cleaning wipes, 2 soaps and 1 machine filter replacement pack. At 12 month intervals (upon renewal) – you will receive the batch of the consumables described above for the 6 month interval <i>plus</i> 1 new humidifier tub, 1 set of replacement tubing and 1 replacement mask of the same model and size.
Cooling Off Period	<p>You may terminate the Agreement by written notice within 14 days of the start of the initial 6-month term (Cooling Off Period).</p> <p>In circumstances where you terminate during the Cooling-Off period, you must:</p> <ul style="list-style-type: none"> Return the PAP machine to Air Liquide within 7 days of termination; and Bear the upfront cost of the CPAP mask of \$199.00 Pay the Rental Fee for the period up to the date upon which the Rented Equipment is returned.

B. VITAL360 "Premium Value" Plan Payment Terms

- In consideration for participation in the Premium Value Plan, you agree to pay Air Liquide the Rental Fee for the entire Agreement Period and the One-Off Fee as set out in the table above.
- All amounts quoted above are inclusive of GST.
- The Rental Fee will be charged on a per day basis and invoiced on a weekly basis. It will be invoiced every Friday and debited from your nominated account the following Monday in accordance with the Direct Debit Authorisation.
- The One-Off Fee will be charged in advance prior to the Rented Equipment being released to you.
- If you terminate the Agreement during the Cooling-Off Period or a Termination Period but do not return the Rented Equipment to us within 7 days of that termination, you will be charged, on a pro rata basis, for each month as follows until the Rented Equipment is returned: \$300 per PAP machine.
- Rented Equipment cannot be purchased at any time during the Agreement Period. If you determine during an Agreement Period that you would like to purchase an equivalent machine, then Air Liquide will endeavour to assist You to do so but You will nonetheless need to complete the Agreement Period then underway (or pay the outstanding Rental Fee for the full Agreement Period even where Rented Equipment is returned early).

2. VITAL360 "Standard Value" Plan

A. Summary of the VITAL360 "Standard Value" Plan key terms

Total Cost	\$1.00 per day (Standard Value Plan Fee) plus a one-off upfront cost of the mask in the amount of \$199.00 (One-Off Fee). You will also need to pay the purchase price of the PAP machine (amount of which will depend upon your device choice). Total minimum cost over 6 month period, excluding PAP device: \$416.90 including GST
Minimum Duration	6 months (Agreement Period).
Agreement Renewal	At the end of the initial 6-month term, the Agreement renews automatically for successive 6-month terms unless you give notice of termination at least 14 days prior to the end of the 6-month term then underway (Termination Period). Air Liquide will issue a written notice of the pending renewal no later than 30 days before the end of the 6-month term. This notice may be in the form of a pro forma invoice.
What's Included	<ul style="list-style-type: none"> 1 compatible mask (with consumables set out below). Ongoing connected care monitoring (with compatible devices). PAP machine servicing (Machine Service).
What consumables are included and when are they supplied?	<ul style="list-style-type: none"> On the date of PAP machine purchase – 2 sets of cleaning wipes and 2 soaps. At each 6 month interval (upon renewal) – 2 sets of cleaning wipes, 2 soaps and 1 machine filter replacement pack. At 12 month intervals (upon renewal) – you will receive the batch of the consumables described above for the 6 month interval <i>plus</i> 1 new humidifier tub, 1 set of replacement tubing and 1 replacement mask of the same model and size.
Cooling Off Period	<p>You may terminate the Agreement by written notice within 14 days of the start of the initial 6-month term (Cooling Off Period).</p> <p>In circumstances where you terminate during the Cooling-Off period, you must:</p> <ul style="list-style-type: none"> Retain the PAP machine purchased (subject to any legal rights you may have as detailed at clause 12); Bear the upfront cost of the mask of \$299.00; and Pay the Standard Value Plan Fee for the period up to the date upon which you terminate.

B. VITAL360 "Standard Value" Plan Payment Terms

- You will be eligible to participate in the Standard Value Plan upon purchasing a new PAP machine from Air Liquide.
- In consideration for participation in the Standard Value Plan, you agree to pay Air Liquide the Standard Value Plan Fee for the entire Agreement Period and the One-Off Fee as set out in the table above (in addition to the PAP machine purchase price).
- All amounts quoted above are inclusive of GST.
- The Standard Value Plan Fee will be charged on a per day basis and invoiced on a weekly basis. It will be invoiced every Friday and debited from your nominated account the following Monday in accordance with the Direct Debit Authorisation.
- The One-Off Fee and the PAP machine purchase price will be charged in advance prior to the items being released to you.
- Unlike the VITAL360 "Premium Value" Plan, the "Standard Value" Plan will not constitute an equipment rental agreement.

3. VITAL360 Machine Service

- (a) The Machine Service is available to both Premium Value Plan and Standard Value Plan Customers (**Plan Customers**).
- (b) The Machine Service consists of a consultation with an Air Liquide Consultant who will:
 - i. check that your PAP machine is achieving and maintaining the desired PAP pressure;
 - ii. assess the PAP air filter and PAP tubing integrity and functionality; and
 - iii. provide an external clean of the PAP Machine.
- (c) The Machine Service is available to Plan Customers up to three (3) times in each 12 month period beginning on the date of Agreement commencement.
- (d) Machine Service is not redeemable for cash or available for use with other Air Liquide products.

4. VITAL360 Plan Termination

- (a) You may terminate your VITAL360 Standard Value or Premium Value plan, however, if you terminate after the Cooling Off Period (but before the end of your current Agreement Period) then you will be liable to pay the total plan cost for the remainder of your Agreement Period (**Cancellation Fee**). For example, if you are on the Premium Value Plan with an Agreement Period that ends on 31 December, and you cancel on 30 November, then your Cancellation Fee will be \$93.00 (being 31 days remaining multiplied by \$3.00 per day).
- (b) All terminations must be by notice in writing via email to Air Liquide.
- (c) If you hold Rented Equipment at the time of your termination, you must return it to Air Liquide Healthcare within 7 days. If you do not return the Rented Equipment to us within 7 days of that termination, you will continue to be liable for the total plan cost for each day until the Rented Equipment is returned.
- (d) In circumstances where, following termination, Rented Equipment is not returned within 30 days of a written request by Air Liquide, then you will be liable for the full replacement cost of that Rented Equipment.

5. Therapy Partnership Program (TPP)

A. Summary of the Therapy Partnership Program key terms

Total Cost	\$10.00 per day <u>or</u> discounted to \$6.00 per day if Customer is in possession of a prescription for CPAP therapy from a registered sleep physician (Daily Fee).
Minimum Agreement Duration	No minimum commitment. The duration of your participation in the Therapy Partnership Program (TPP Period) is entirely at your discretion.
What's Included	<ul style="list-style-type: none"> • 1 rented continuous positive airway pressure (PAP) machine; and • 1 rented compatible mask (no consumables).
Are consumables included?	No, consumables are not included as part of the Therapy Partnership Program and are required to be purchased separately. Consumables (such as soaps, cleaning wipes, tubing brushes or filters) are available for purchase from Air Liquide upon request.
Can I purchase the Rented Equipment during the TPP Period?	No, you cannot purchase the equipment you are renting during your Therapy Partnership Program. You must return your TPP equipment before you can purchase your own equipment.

B. Therapy Partnership Program (TPP) Payment Terms

- (a) You agree to pay Air Liquide the Daily Fee set out in the table above for the entire duration of your participation in the Therapy Partnership Program. Amounts quoted are inclusive of GST.
- (b) The Daily Fee will be charged on a per day basis and invoiced on a weekly basis.
- (c) The Daily Fee will be invoiced every Friday and debited from your nominated account the following Monday in accordance with the Direct Debit Authorisation. If you choose to pay for an agreed Therapy Partnership Program period in advance, then the full amount will be debited and invoiced immediately.

- (d) If you terminate your participation in the Therapy Partnership Program but do not return the Rented Equipment to us within 7 days of that termination, you will be charged, on a pro rata basis, for each month as follows until the Rented Equipment is returned: \$300 per PAP machine and \$100 per mask.

6. Rented Equipment maintenance and safe custody

- (a) Note that, for the purposes of this Agreement, "**Rented Equipment**" means:
 - i. for the VITAL360 "Premium Value" Plan, the PAP machine;
 - ii. for TPP, both the PAP machine and the mask; and
 - iii. any mask trialed, loaned or rented outside of a VITAL360 Plan or TPP.
- (b) Air Liquide will rectify any faults or defects in the Rented Equipment arising from fair wear and tear. In order to properly diagnose and remedy such faults and defects, it is optimal that you notify us in writing within 72 hours of their occurrence.
- (c) You bear all risk in relation to the Rented Equipment from its delivery to you until its return to Air Liquide or Air Liquide's Representative including:
 - iv. the risk of damage to any item (including any damage to, or removal of, Air Liquide's identification marks on the Rented Equipment) and will indemnify Air Liquide for any such damage (except for any fair wear and tear); and
 - v. the risk of loss of any item, in which case, without prejudice to Air Liquide's right to claim for Rental Fees or Daily Fees in respect of any Agreement Period or TPP Period, a 'Lost Equipment Fee' equating to the recommended retail price for a new equivalent machine or mask.
- (d) You acknowledge that you are wholly responsible for the care and secure storage of the Rented Equipment while it is in your possession, custody or control and you will take reasonable steps to prevent loss, damage or theft of the Rented Equipment.
- (e) A Lost Equipment Fee may be charged by Air Liquide where you fail to return any Rented Equipment when duly required to do so by Air Liquide and Air Liquide determines, acting reasonably, that such Rented Equipment is unable to be located.
- (f) You agree to:
 - i. maintain the Rented Equipment in good operating order, repair, condition and appearance, and must comply with the specifications and recommendations of the manufacturer as advised from time to time (with the exception of normal wear and tear);
 - ii. keep the Rented Equipment properly housed in a secure location that suits the type of Rented Equipment and is in accordance with any accompanying instruction manual and/or instructions from Air Liquide;
 - iii. comply with all applicable laws, regulations, requirements and rules concerning the safe and lawful operation of the Rented Equipment.
- (g) You must not:
 - i. deface the Rented Equipment, or deface, remove or conceal any Air Liquide logo, identifying mark or serial number on the Rented Equipment;
 - ii. permit the Rented Equipment to be used or operated unlawfully, carelessly or in any manner which may be unsafe or endanger the condition of the Rented Equipment or which may be likely to breach the terms of any insurance policy held for the Rented Equipment;
 - iii. not repair, modify, tamper with or allow or cause the Rented Equipment to become contaminated; and
 - iv. part with possession of the Rented Equipment or grant a security interest over the Rented Equipment without the prior written consent of Air Liquide.

7. Instructions and safety

- (a) You acknowledge and confirm that Air Liquide personnel have explained and provided you with (and recommended you read) comprehensive instructions in respect of the safety, maintenance, possession and use of the PAP machine, mask, accessories and consumables, including (without limitation) written and verbal instructions regarding your therapy, safe use of our goods and services. You agree that you will:
 - i. only use the PAP machine, mask, accessories and consumables strictly for their intended purpose and in accordance with those instructions;
 - ii. maintain the Rented Equipment in accordance with those instructions;

- iii. be the only user of the Rented Equipment, mask, accessories and consumables and that you will not allow or encourage others to use them;
- iv. immediately advise us of any defect in the Rented Equipment, mask, accessories and consumables.

8. Medical advice

- (a) You acknowledge that:
 - i. Air Liquide has not provided you with, and does not provide, any medical advice;
 - ii. Any representations made by Air Liquide are only in relation to the general functionality of a Pap machine,, accessories and consumables;
- (b) You have obtained, will continue to obtain and comply with medical advice from a qualified medical practitioner in relation to your use of the Pap machine, accessories and consumables; and
- (c) You will inform us immediately of any changes made to your prescription by your physician.

9. Liability and release

- (a) You acknowledge that you are solely responsible for payment of any amounts owing to Air Liquide except to the extent you authorise, and Air Liquide receives payment in respect of your transaction with Air Liquide under this Agreement from a government, insurer or other payer agency. While Air Liquide may provide you with assistance in this matter, you acknowledge that it is your responsibility to qualify for any such coverage.
- (b) You acknowledge that Air Liquide assumes no responsibility or liability for the success, failure or effect of any treatment service prescribed by your treating medical practitioner.
- (c) To the extent permissible, and subject to any rights you have under the Australian Consumer Law, You release Air Liquide from liability for any damage, expense, loss or liability suffered or incurred in respect of your possession or use of the PAP machine, accessories and consumables, unless caused by (and only the extent of) our negligence.
- (d) You warrant that:
 - i. you have conducted your own enquiries in relation to the performance and suitability of the PAP machine for your needs; and
 - ii. in entering into this Agreement, you have not relied solely upon any express or implied representations of Air Liquide in selecting a PAP machine.
- (e) You agree to comply promptly with your payment obligations under this Agreement. You also agree that you must reimburse Air Liquide for the full amount of any:
 - i. bank or other fees associated with any dishonoured payments; and
 - ii. legal, debt recovery or other expenses associated with any action which is necessary to recover from you any Air Liquide owned Rented Equipment or outstanding payments.

10. Privacy, Disclosure & Connected Care

- (a) The personal information you provide in this Agreement and which Air Liquide collects as a result of your entry into this Agreement is to assist us to facilitate your treatment. You acknowledge that Air Liquide may review this personal information and send a copy of this information to your treating medical practitioners.
- (b) The Air Liquide Privacy policy contains information on how we handle your personal information, how you can request access to or correct personal information we hold about you and who to contact if you have a privacy complaint. That policy can be viewed at: <https://au.healthcare.airliquide.com/privacy-policy>
- (c) The Air Liquide Credit Reporting Policy details how we collect, use and disclose your credit related personal information. The policy can be viewed at: <https://au.healthcare.airliquide.com/legal>
- (d) By entering into this Agreement, you acknowledge that you have read and agree to our:
 - i. Privacy Policy; and
 - ii. Credit Reporting Policy.
- (e) Air Liquide may supply you with medical devices and accessories with connected care functionality that store and transmit data (including personal information) electronically. These devices are manufactured by third party suppliers. If you opt to be supplied with such a device, you authorise Air Liquide to collect and disclose your personal information, which includes your health information and data obtained electronically from your device, to the applicable device supplier(s) and to your treating medical practitioners.
- (f) The Air Liquide Connected Care Agreement contains specific information in relation to the collection and use of personal information we hold

about you for the purposes of providing connected care services. A copy of that agreement is available to be viewed at:

<https://au.healthcare.airliquide.com/connected-care-agreement>

- (g) You acknowledge that the device suppliers may use and disclose your personal information in accordance with their own respective privacy policies which, depending upon the relevant manufacturer, can be found at:

- Fisher & Paykel: <http://www.fpinfosmart.eu/terms/privacypolicy>
- Philips: <https://www.philips.com.au/a-w/privacy-notice.html>
- ResMed: <http://www.resmed.com/au/en/consumer/privacy>
- Lowenstein: www.loewenstein.au
- BMC: https://icodeconnect.com/pages/privacy_policy

11. Mask Satisfaction Program (MSP)

- (a) As part of the VITAL360 Plan and Therapy Partnership Program, you are eligible to participate in the Mask Satisfaction Program (MSP).
- (b) The MSP is offered to you in collaboration with mask manufacturers approved by Air Liquide. You acknowledge and accept that:
 - i. any or all of Air Liquide's approved mask manufacturers may withdraw their participation in the MSP at any time; and
 - ii. Air Liquide cannot guarantee that a manufacturer will continue to participate in the MSP in the future.
- (c) During the MSP, if you would like to exchange an approved mask in favour of another mask during the first 15 days of use of the mask (**MSP Trial Period**), Air Liquide will procure you a replacement mask from a participating manufacturer at no charge to you.
- (d) Any request for a replacement mask as part of the MSP will need to be made in writing within the MSP Trial Period. Contact your relevant Air Liquide point of purchase for assistance in lodging a request for a replacement mask..
- (e) You will not be required to pay any additional funds if the replacement mask has a recommended retail price that is higher than the initial mask purchased. Similarly, you will not receive a refund or credit from Air Liquide if the replacement mask has a recommended retail price that is lower than the initial mask received.
- (f) As part of the MSP, a mask can only be returned on the basis of a personal comfort issue. Cushions to replace an incorrectly sized mask are not covered by the MSP.
- (g) The MSP is subject to a 'fair and reasonable participation' policy and is intended to assist patients to make an appropriate and informed choice as to mask suitability and comfort. For this reason, only one (1) mask change is permitted per eligible customer under the MSP.
- (h) Any mask returned as part of the MSP must not be damaged, modified or in any way tampered with (save for any fair signs of normal use).
- (i) You consent to Air Liquide providing returned masks to the manufacturer for quality control purposes.
- (j) The MSP is offered in addition to (not in substitution for) any implied warranties at law.
- (k) Any masks trialed, loaned or rented outside of a VITAL360 Plan or TPP shall be charged at a rate of \$2.00 per day.

12. Australian Consumer Law

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- (a) to cancel your service contract with us; and
- (b) to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

13. Fee Review

- (a) From time to time, Air Liquide may review any fees or charges under this Agreement and, if determined necessary by Air Liquide, apply an increase to those fees and charges including (but not limited to) in accordance with changes to CPI. In circumstances where this is necessary, Air Liquide will provide you with 30 days notice prior to applying any such increase.
- (b) A reference to "CPI" in this Agreement means the weighted average of the All Groups Price Index Numbers for the eight capital cities of the states and territories of Australia, published from time to time by the Australian Bureau of Statistics, or if that index is no longer published, its substitute as a cumulative indicator of the inflation rate in Australia).