



TERMS AND CONDITIONS

ALL INFORMATION CONTAINED WITHIN SHIPPER TICKETS AND INVOICES IS CONFIDENTIAL AND CAN ONLY BE USED BY SELLER; THIS INCLUDES BUT IS NOT LIMITED TO PRICING, PRODUCT AND CUSTOMER INFORMATION.

IMPORTANT: PLEASE READ CAREFULLY THE TERMS AND CONDITIONS OF SALE WHICH APPEAR WITHIN THIS DOCUMENT, ALL SALES ARE SUBJECT TO SUCH TERMS AND CONDITIONS. PAYMENT TERMS ARE NET 30 DAYS FROM INVOICE DATE. INVOICES NOT PAID IN ACCORDANCE WITH TERMS ARE SUBJECT TO A COMPOUNDING SERVICE CHARGE OF 1-1/2% PER MONTH.

Customer Signature: THE BUYER NAMED IN A SHIPPING TICKET OR INVOICE, BY ACCEPTANCE AND USE OF THE GOODS SPECIFIED WITHIN, ACCEPTS AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS LOCATED WITHIN THIS DOCUMENT AND INCLUDING THE FOLLOWING CONDITIONS:

1. All Cylinders and fittings are leased to BUYER; Cylinders and other Movables leased to BUYER remain the sole PROPERTY of SELLER.
2. BUYER shall return leased Movables in good condition and repair and shall be responsible for damage to and loss of leased Movables from the time of delivery to BUYER to the return thereof to SELLER.
3. The shipped items will remain the property of SELLER until final payment has been made.
4. BUYER shall not refill or permit any third party to refill any Cylinder.
5. BUYER shall not lease, loan or encumber any Movable leased to BUYER by SELLER.
6. If BUYER fails to return cylinders and/or other leased Movables to SELLER, BUYER shall pay to SELLER the market retail rate of cylinders and/or any Movable as of the date of settlement of all claims between SELLER AND BUYER, plus loss of use. These amounts shall constitute liquidated damages and shall not vest title in the Movable to BUYER. If BUYER later returns Movables to SELLER, BUYER may be refunded monies paid for liquidated damages, less expenses paid, pursuant to the terms listed within this document.

20% RESTOCKING FEE ON ALL RETURNED INVENTORY GOODS RESTOCKING FEE ON SPECIAL ORDER ITEMS BASED ON MANUFACTURER RESTOCK FEE

TERMS AND CONDITIONS UPON WHICH PRODUCTS ARE SOLD TO CUSTOMER AND WHICH CONTAINERS ARE RENTED

Terms of Sale are the terms and conditions contained herein and supersede any other terms and conditions in any other document or agreement which may be contradictory to the terms and conditions stated herein, unless specifically waived in writing by Seller. Each agreement ("Contract") between Buyer and Seller shall contain Terms of Sale together with any special provisions. Company or Companies listed in the heading of the Shipping Tickets and/or Invoices are referred to herein as "Seller", "Buyer" refers to the customer listed within the heading. "Movables" are tangible property described in any Contract, and include, but are not limited to, hard goods, consumables, leased equipment, leased cylinders of gases or liquids, reusable boxes and all fittings, caps and associated equipment. **Cylinders and leased equipment are and will remain the sole property of Seller.** Cylinders and leased equipment are rented to Buyer on a month to month basis, the terms of which are detailed herein under "Equipment and Cylinder Rental". All sales of Movables are made F.O.B. at the shipping point. Buyer shall pay all shipping and insurance charges, and the risk of loss of or damage to Movables shall pass to Buyer at the time Movables are delivered to a common carrier or to Buyer. In the event of default by Buyer, Seller may decline to make further shipments without affecting Seller's rights. Until Buyer pays Seller in full, in addition to any service charges specified herein, title and ownership of Movables shall remain with Seller. Seller reserves a purchase money security interest in the Movables. Should Buyer default in payment, Seller shall have all rights as holder of such title or any other law then in force. Buyer agrees to execute any document appropriate or necessary to perfect the security interest of Seller, or in the alternative, Seller may file these terms as a financing statement and/or chattel mortgage. If Buyer fails to make full payment within thirty (30) days of Seller's invoice, service charges at two (2.0%) percent of the amount owed as of the due date of Seller's invoice, or the maximum lawful rate allowable in the state where the goods are delivered, whichever is greater, shall accrue and compound monthly on the past due amount. If the service charges are later found to be inequitable or usurious, Seller will reduce the rate and credit or refund all excess service charges remitted upon request of Buyer. If Seller employs a collection agency or attorney at law to collect any amount due Seller, Buyer shall pay all collection fees, attorneys' fees, judicial interest and court costs in addition to any unpaid amount, including service charges. Seller shall select the jurisdiction and venue for the collection of any or all amounts owed, without respect to the conflicts of laws provisions of the applicable jurisdiction. **SELLER MAKES NO WARRANTY, REPRESENTATIONS OR GUARANTEES OF ANY KIND, EXPRESS OR IMPLIED; NO IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY WHICH EXCEEDS THE FOREGOING WARRANTY; AND SUCH IMPLIED WARRANTIES ARE HEREBY DISCLAIMED FROM ANY CONTRACT RESULTING OR ARISING FROM, OR OTHERWISE EVIDENCED BY ANY CONTRACT.** Any sales, use, excise, ad-valorem, receipt or like taxes or any duties, import or custom taxes, or import surcharges which may now or hereafter be imposed by federal, state, local or any other governmental authority for the sale, export, import or use of Movables referred to on the face hereof shall be borne by Buyer. No Action shall be brought by Buyer for breach of any contract between the parties arising more than one year after the cause of action accrues. Buyer shall use, and shall require its employees to use all safety devices, guards, and proper safe operating procedures and to comply with all legal requirements, federal, state or local, regulating the use and/or possession of Movables. Buyer shall indemnify, defend, and hold harmless Seller and its employees, agents, successors, officers, and assigns, from any and all suits, losses, claims, demands, liabilities, costs and expenses which shall include attorney fees, accounting fees, expert fees, judicial interest and court costs, that Seller may sustain or incur arising from Buyer's use of Movables, including storage, handling and transportation. Seller shall not be liable for costs of procurement of substitute products or services, nor for any loss of business, loss of use or of data, interruption of business, lost profits or goodwill, or other indirect, special, incidental, exemplary or consequential damages of any kind arising out of this agreement. If any provision herein shall be illegal or unenforceable, such illegality or unenforceability shall not affect the validity and enforceability of any other legal provisions herein which together shall then be construed as if such illegal and unenforceable provision(s) had not been inserted, unless such illegality or unenforceability shall damage the underlying business purpose of this agreement. The terms and conditions hereof cannot be altered, changed or waived unless accomplished in writing and signed by an authorized executive officer of Seller. Buyer agrees to seek the sole remedy for all legal disputes arising out of this agreement through arbitration and/or mediation. As such any and all relief sought by Buyer may only be had and settled through arbitration and/or mediation proceedings. Seller and Buyer especially agree that Buyer has received all of said movables in good operating condition. **Buyer has a duty to promptly inspect all movables and inform Seller within twenty-four (24) hours of delivery of any alleged defect.** In the absence of notifying Seller within twenty-four (24) hours, each movable shall be conclusively presumed to be free of defects at the time of delivery. Buyer permits Seller to request Buyer's credit information from any credit reporting agency.



EQUIPMENT AND CYLINDER RENTAL

Buyer, as "Lessee", leases Movables more fully described above, from Seller, "Lessor". In addition to the terms contained herein, Lessee agrees bound by the additional terms and conditions listed hereafter. Lessee agrees to use said Movables in a skillful and workmanlike manner and shall not injure or abuse the same. Lessee agrees to only permit qualified persons to handle cylinders or operate leased equipment. Lessee agrees to maintain cylinders and leased equipment in a good and proper state of repair and shall notify Lessor immediately of any defects. Only Lessor may perform repairs on leased equipment and all repair costs shall be borne by Lessee. Lessee shall use cylinders only for dispensing gases purchased from Seller. **Lessee shall not have or permit any third party to introduce any other gases or any substance into a cylinder.** Lessee shall not lease, lend or encumber any of Lessor's cylinders or equipment without the written permission of Lessor. Lessee shall return leased cylinders and/or equipment to Lessor's designated location. Lessee shall not return cylinders or other leased equipment to a party other than Lessor. Lessee is responsible for any damage to or loss of Lessor's cylinders and equipment and shall return cylinders and equipment to Lessor in the same condition as when originally delivered to Lessee. After arrival at Lessor's designated location, Lessor will inspect returned cylinders and equipment and will inform Lessee of damages to either. Lessee shall pay Lessor the invoiced amount for damage to cylinders at NET 15 from the date of invoice, unless otherwise agreed in writing by Lessor. Lessee, at Lessee's own cost and expense, shall insure and keep all of said Movables insured against loss or damage by fire, theft, explosion, accident or other casualties. Nothing herein shall limit liability of Lessee as full insurer. Lessee shall pay rental on each of Seller's leased cylinders and equipment in possession of Lessee at Lessor's then established rate. Rent on cylinders and equipment is calculated daily, unless otherwise agreed to by Lessor, and may include additional facility and handling fees. Lessor may raise rent from time to time without the burden of providing Lessee notice. Rent may be calculated separately for each point of delivery and for high pressure and low pressure cylinders. Rent shall be payable separately as to each distribution Lessor. **Lessee shall immediately notify Lessor in writing of any cylinder discrepancy. Lessee shall not be entitled to credit or a refund on rental accrued greater than ninety (90) days prior to the date of Lessee's written cylinder discrepancy notice to Lessor.** Upon the completion of an accounting or audit performed by Lessor, Lessee shall pay at NET 15 the then current list price, or the value of the cylinder listed on the reverse side, whichever is higher, plus loss of use for outstanding cylinders. If upon the termination of the lease, Lessee fails to timely return leased equipment or cylinders, Lessee shall pay Lessor an amount equal to the list price of the cylinder or equipment or the amount listed above, whichever is greater, together with loss of use. If a cylinder is later returned to Lessor, Lessor may refund the cost of the returned cylinder or equipment, less the cost, if any, of repair to the cylinder or equipment, rental accrued as of the date of the return, any and all court costs, service charges, and attorney fees due Lessor from Lessee. **Cylinders are not subject to depreciation.** Payment of the value of the cylinder or equipment shall not vest title of the Movable to the Lessee. Lessor has the right to convert Lessee from a month to month lease to an annual lease, if Lessee's monthly cylinder rental amount falls below or is established at or below Thirty five and 00/100 (\$35.00) Dollars. At any time, Lessor may **enter** the premises where Movables, or any part thereof, can be found or located, and re-take full and complete possession thereof, and remove the same, in which event neither Lessor, nor its agents, successors, or assigns, shall be or become liable in any way to Lessee by reason of such re-taking or removal, Lessee waives and releases any and all claims, demands and causes of action of every kind and character. Should Lessor re-take possession of cylinders or upon Lessee's return of cylinders, Lessee waives any and all right it may have to the remaining cylinder contents. The terms and conditions contained herein supersede and replace the language in any earlier shipping ticket and govern all cylinders and leased equipment currently shown to be in the possession of Lessor.