

Terms and Conditions

1. **Acceptance** This Agreement is an acceptance of your order but is conditioned on your assent to the provisions of this Agreement as the sole terms and conditions of the sale of the Goods and rent of the Cylinders described in this Agreement. Acceptance of the Goods and the Cylinders, in whole or in part, or other assent by you to the terms and conditions of this Agreement shall constitute an agreement to all the terms and conditions in this Agreement, regardless of any contrary statements or representations contained in your order or otherwise.
2. **Sale and Rent** AWI hereby sells the Goods and rents the Cylinders to you, and you hereby purchase the Goods and rent the Cylinders from AWI. MSDS's are available for all required Goods upon request. When used in this Agreement, the following terms have the following meanings:
 - **Agreement** This Agreement includes the terms of the face hereof, these Terms and Conditions, and any terms on any continuation pages.
 - **Goods** All gas contents, welding materials and supplies, and other goods (other than the Cylinders) described on the face of this Agreement (and any continuation pages to this Agreement) to be sold to you by AWI under this Agreement.
 - **Cylinder** The gas cylinders used to store and transport the gas contents included in the Goods, together with the fittings and cap to the cylinders.
 - **Delivery and Return** Delivery of the Goods and the Cylinders will occur (1) for delivered Goods and Cylinders, when AWI unloads the Goods and the Cylinders at the "ship to" address on the face of this Agreement: and (2) for pick-up Goods and Cylinders, when the Goods and Cylinders are loaded on your vehicle. Return of the Cylinders will occur when the Cylinders are picked-up by AWI or delivered by you to an AWI facility and you receive a return receipt from AWI.
3. **Term of Cylinder Rental** Each Cylinder will be rented to you for a term commencing upon Delivery and continuing until Returned. You may use each Cylinder solely for containing and dispensing the gas contents sold to you as part of the Goods in accordance with good industry practice and all applicable law and for no other purpose whatsoever. You will use the gas contents within a reasonable period. You will not loan, modify, or refill the Cylinders and will Return the Cylinders to AWI when empty. If any Cylinder is not labeled with the contents of the Cylinder, you will not use the Cylinder but will promptly notify AWI.
4. **Purchase Price and Cylinder Rent**
 - **Purchase Price** The purchase price for the Goods (together with additional charges for delivery, hazardous materials, sales taxes, etc.) are set forth on the face of this Agreement. You agree to pay the purchase price and all such charges upon invoice from AWI.
 - **Cylinder Rent** The rent for each Cylinder will be charged according to the rental policy of AWI. You agree to pay the rent and taxes thereon upon invoice from AWI.
 - **Invoice Late Charges** The purchase price (and other charges) and rent will be due and payable within 30 days from the date of invoice. You agree if any invoice

is not paid when due, the unpaid balance will be subject to a service charge of 1.41% per month.

5. **Risk of Loss: Title**

- **Goods** Risk of loss to the Goods will pass to you upon Delivery. Title to the Goods will pass to you upon payment in full of the purchase price (and any additional charges) for the Goods.
- **Cylinder** Risk of loss to the Cylinders will pass to you upon Delivery and will remain with you until returned, when returned each Cylinder will be in the same condition as when you received it, ordinary wear and tear excepted. In the event of loss of any Cylinder, you will pay AWI the value of the Cylinder as determined by AWI (which value will be set forth monthly on the invoice for Cylinder rent). Title to the Cylinders shall always remain in AWI and you will not cover, alter, remove, or otherwise deface any identification of AWI on or affixed to the Cylinders. AWI may from time to time inspect all Cylinders and you will permit AWI reasonable access at no charge to your premises for inspection. With each invoice for Cylinder rent, AWI will set forth an inventory of all Cylinders you have rented under this or any other agreement and such inventory will be deemed accurate and final unless you object thereto within 30 days of the invoice date. No Cylinder will be deemed Returned until you receive a return receipt from AWI.
- **Financing Statement** Upon request of AWI, you will segregate all Cylinders from cylinders of any other person and will execute any UCC financing statement or other document requested by AWI for informational purposes or otherwise to evidence AWI's title (or security interest) in the Goods and its title in the Cylinders.

6. **Inspection Acceptance** You will have the right to inspect the Goods and the Cylinders for 24 hours after Delivery. In the event you discover any defect or nonconformity, you may reject the defective or nonconforming Goods or Cylinders by giving written notice to AWI within such 24-hour period. Following such notice, you will have the remedies set forth in Section 9. Failure to notify AWI in the 24-hour period will be deemed acceptance of the Goods and Cylinders.

7. **Warranties** AWI warrants for a period of 15 days after Delivery that upon Delivery each Cylinder is properly marked with legible labels identifying the gas contents of the Cylinders. In the event any Cylinder is not so marked, you may make a warranty claim by giving written notice of the claim to AWI within such 15-day period. Following such notice, you will have the remedies set forth in Section 9. Failure to notify AWI in the 15-day period will be deemed acceptance of the Cylinders. EXCEPT AS PROVIDED IN THIS SECTION 7, AWI MAKES NO WARRANTIES, EXPRESS OR IMPLIED WITH RESPECT TO THE GOODS OR THE CYLINDERS. WITHOUT LIMITING THE SCOPE OF THE PRECEDING SENTENCE, AWI SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. AWI assigns to you, solely for the purpose of prosecuting a claim against any manufacturer of the Goods, all assignable rights of AWI against the manufacturer for breach of warranty respecting the Goods.

8. **Your Remedies** Limitation of Liability In the event any item of the Goods or any Cylinder is defective or does not conform as provided in Sections 6 or 7, AWI shall promptly and fully replace or correct the item or the Cylinder at its expense (including all

transportation expenses). Such replacement will be your exclusive remedy for breach of Sections 6 and 7. In no event shall AWI be liable to you under Sections 6 and 7 or otherwise under this Agreement whether in contract, in tort (including negligence and strict liability), in warranty, or otherwise, for any special, indirect, incidental, or consequential damages whatsoever, for punitive damages or penalties, or for loss of profits or revenue. Any action resulting from any breach of this Agreement by AWI must be commenced within one year after the cause of action accrues.

9. **Indemnity** You will defend, indemnify, and hold AWI and its officers, directors, and employees harmless from and against any and all cause of action, claims, damage, or other loss arising out of injuries to or death of persons and damage to or destruction of property in any manner caused by, incident to or connected with the Cylinders or the contents thereof unless such loss is caused by a defective Cylinder or contents thereof.
10. **Miscellaneous** This Agreement comprises the full and complete expression of all understandings between AWI and you regarding the sale of the Goods and the rental of the Cylinders. No amendment, waiver, or modification to this Agreement shall be binding unless it appears in a writing executed by you and AWI. To the extent that any provision of this Agreement contemplates ongoing performance or ongoing protection concerning either you or AWI, such provision shall survive Delivery and acceptance of the Goods and the Cylinders, payment of amounts due under this Agreement and all other performance under this Agreement. This Agreement shall be binding on and inure to the benefit of you and AWI and our respective successors and assigns, provided, however, you may not assign or delegate the rental of the Cylinders in this Agreement without the prior written consent of AWI. This Agreement will be governed by the laws of Arkansas if any legal action is initiated concerning this Agreement, the prevailing party shall be entitled to costs of litigation, interest, and reasonable attorney's fees, in addition to any other recovery obtained.