

TERMS AND CONDITIONS

1. TITLE

Customer agrees that title to the merchandise herein described shall remain with Rocky Mountain Air Solutions ("RMA") a United States Welding, Inc. company, until paid for in full and Customer shall pay all costs and reasonable attorney's fees and/or collection costs should any be incurred in collection of this account. Repossession by RMA of merchandise sold hereunder shall not preclude its rights to recover deficiency from customer if price received is not sufficient to pay amount due hereunder. Payment constitutes customer acknowledgement that the invoice is correct. If this document includes the sale or renewal of a lease then payment is acknowledgement and acceptance of the renewal of the lease and of the automatic renewal. Leases are non-transferable.

2. CYLINDERS

The cylinders, fittings and caps covered hereby are rented by RMA, **NOT SOLD**, to the Customer. The Customer shall not loan or refill or cause to be loaned or refilled the cylinders furnished by RMA. Customer shall at all times be fully aware of the location of RMA cylinders in its possession (whether leased or rented) and failure to be able to account for all cylinders may, at RMA's discretion, be grounds for immediate termination of any lease. Customer shall pay to RMA upon demand the value of any cylinder or fittings lost, destroyed, or damaged through any cause whatsoever, or not returned to RMA or, if damage can be repaired, the cost of making such repair. Payment by the Customer for any such cylinder shall not vest title to such cylinder to the Customer, but if any such cylinder so paid for is subsequently returned to RMA, the amount paid with respect thereto by the Customer will be refunded less the cost, if any, of putting cylinder in repair, and cylinder rental accrued to the date of such return. Gas cylinders must NEVER be moved in closed spaces, including but not limited to car trunks, due to the high risk of EXPLOSION OR FIRE. Customer ASSUMES ALL RISK of bodily injury and property damage and RELEASES AND HOLDS HARMLESS VENDOR and its employees, officers, and directors from any liability for bodily injury to any person or loss or damage to the vehicle or any other property resulting from such transporting of any gas cylinder(s) by car, van, or other closed motor vehicle. REFILLING OF AND TRANSFILLING FROM LOANED CYLINDERS BY CUSTOMER OR ANYONE ELSE WITHOUT THE EXPRESS WRITTEN CONSENT OF RMA IS PROHIBITED.

3. LIMITATION OF WARRANTIES, REMEDIES AND DAMAGES

- (a) RMA shall not be liable for any special, punitive, indirect or consequential damages (including downtime) caused by its breach of any of the terms or conditions hereof or otherwise arising out of the merchandise (including the use, manufacture, condition, delivery or presence thereof or any other matter, service or activity relating thereto, whether caused by RMA's breach of contract, negligence or other tortious conduct, or otherwise).
- (b) RMA warrants all cylinders, equipment, product or merchandise delivered herewith will meet their manufacturer's standard specifications. The liability of RMA for defective or undelivered merchandise and/or the consequences thereof shall be limited solely to (at RMA's option) replacement of the merchandise or giving Customer a credit or refund in the amount of the contracted price of the affected merchandise. Customer shall give written notice to RMA within fifteen (15) days after the arrival of any claim of nonconformity or defective merchandise. A stocking and handling charge will be made on merchandise returned (unless the return is for the nonconformity or defective merchandise as described above). All returned merchandise must be accompanied by its invoice.
- (c) Except for the said replacement or refund, RMA shall not be liable to Customer or any other person for, and (unless the same are caused solely by the gross negligence or willful misconduct of RMA) Customer shall indemnify RMA with respect to any loss, injury (including death) or damage to person or property, and all claims and expenses relating thereto, arising out of or relating in any way to the merchandise or the non-delivery thereof.
- (d) THERE ARE NO EXPRESS WARRANTIES BY RMA OR MANUFACTURER OTHER THAN THOSE SPECIFIED HEREIN. NO WARRANTIES BY RMA OR MANUFACTURER (OTHER THAN WARRANTY OF TITLE AS PROVIDED IN THE UNIFORM COMMERCIAL CODE) SHALL BE IMPLIED OR OTHERWISE CREATED UNDER OR BY ANALOGY TO THE UNIFORM COMMERCIAL CODE, INCLUDING BUT NOT LIMITED TO WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.
- (e) Customer assumes all responsibilities for the suitability and the results of using the merchandise alone or in combination with other articles or substances and in any manufacturing, medical, or other process or procedure. No terms or conditions of any purchase order or other document of Customer shall be part of this Agreement, and RMA expressly rejects any such provisions.

4. MISCELLANEOUS

Executive Order 11246, as amended, and its implementing regulations relating to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, age, or national origin are incorporated herein. The materials covered herein were produced in conformity with the Fair Labor Standards Act of 1938, as amended, and the regulations and orders of the United States Department of Labor. The Hazardous Materials Charge, Delivery Charge, or other related Surcharges are intended to cover the increasing costs faced by RMA in complying with federal, state and local regulations involving the storage, handling, transportation and disposal of hazardous materials. The amount of the Hazardous Materials Charge, Delivery Charge, or other related Surcharges have no specific or fixed relation to actual compliance or transportation costs incurred by RMA, which vary by the type of product or service, time and location. These charges are not a federal, state or local tax and are not required by any federal, state or local agency or authority. RMA retains the entire amount of these charges.