

**TERMS OF SALE OR ACKNOWLEDGEMENT**  
Revised January 2008  
Supersedes All Previous Terms And Conditions Of Sale

**ACCEPTANCE OF TERMS AND CONDITIONS**

The acceptance of the Terms and Conditions contained herein is an essential prerequisite to any contract of sale made by Seller. Any offer or acceptance by Seller is made subject to the terms and conditions contained herein and no additional or different terms offered by Buyer shall become a part of the Agreement of Sale between Seller and Buyer unless such terms have been expressly approved in writing by an authorized agent of Seller. If this document is an offer, acceptance of this offer is expressly limited to the terms hereof, and Seller reserves the right to withdraw this offer at any time before its acceptance by Buyer. If this document has been issued by Seller in response to a written offer made by Buyer, Seller's acceptance of Buyer's offer is expressly conditioned on Buyer's assent to the additional or different terms contained herein. If these terms and conditions are not acceptable, Buyer shall notify Seller in writing at once. Buyer's action in (a) accepting any goods manufactured and delivered hereunder, or (b) receiving this document without disaffirmance within three (3) business days of receipt shall constitute an unqualified acceptance by Buyer of the Terms and Conditions contained herein.

**PAYMENT TERMS**

All prices do not include local, state or federal taxes. Taxes are for the account of the Buyer. Payment of shipping costs will be in accordance with the provisions on the face hereof. Payment terms appear on the face of our invoice. All orders are subject to credit approval.

**DELIVERY**

All delivery terms and dates are subject to the availability of the necessary shop space, transportation and production hours. Unless otherwise specified on the face of this invoice, title and risk of loss pass from Seller to buyer at the point of shipment. Buyer is responsible for timely inspecting product on receipt and initiating and pursuing all claims for freight damage.

**CANCELLATION AND RETURNS**

Buyer agrees that, without Seller's prior written approval, an order or portion thereof may not be cancelled by Buyer and no product purchased from Seller hereunder may be returned by Buyer for credit. If cancellation of an order or portion thereof is approved by Seller, a cancellation fee equal to a minimum of 15% of the value of the cancelled order will be paid by Buyer. If cancellation occurs after material has been purchased or fabrication has been started, the cancellation fee shall be an amount sufficient to compensate Seller for the materials acquired and the work performed prior to cancellation, with the materials to remain the property of Seller. If a product return is approved by the Seller, a re-stocking fee equal to a minimum of 15% of the value of the returned product will be paid by Buyer. Cancellation of an order or portion thereof by the Buyer without the approval and agreement of the Seller will subject Buyer to special, direct, indirect and consequential damages.

**LIQUIDATED DAMAGES**

Buyer agrees that if any invoice or part thereof is not paid and Seller is required to institute legal proceedings for collection of any invoice or part thereof that Seller may impose as Liquidated Damages a charge of one (1%) percent per month or the maximum applicable legal amount upon any overdue amount to offset Seller's anticipated damages, including collection and accounting costs.

**JURISDICTION AND VENUE**

The validity, performance and interpretation of this Agreement shall be governed by the laws of the Commonwealth of Pennsylvania and of the United States except for any such law which incorporates the United Nations Convention on Contracts for the International Sale of Goods or any other International Law. The parties agree that any controversy arising under this Agreement shall be determined by the federal or state courts situated in the Commonwealth of Pennsylvania, and both parties hereby submit and consent to the jurisdiction and venue of said courts.

**CLAIMS**

The Seller will not be responsible for handling, storage, demurrage or any other transportation or accessorial service on orders for shipment outside the United States.

**TOLERANCES & VARIATIONS**

Unless otherwise specified by Buyer in writing on front of these Terms of Sale, all goods will be subject to tolerances and variations consistent with usual trade practices regarding dimensions, straightness, section, composition and mechanical properties and normal variations in surface and internal conditions and quality and will also be subject to deviations from tolerances and variations consistent with practical testing and inspection methods.

**FILINGS**

Buyer upon request of the Seller will execute any documents necessary, including UCC statements to evidence Buyers indebtedness to Seller.

**COMPLIANCE**

Seller states its intention to comply with all Federal laws applicable to Seller's performance. If the product sold hereunder consists of or includes liquid cylinders intended for medical service, Buyer acknowledges its responsibility to have tamper proof end fittings installed per Compressed Gas Association Safety Bulletin 26 (CGA SB-26).

**DELAY**

Seller will not be responsible for any delay in performance due to acts of God, war, riots, embargoes, acts of civil or military authorities, fires, floods, accidents, quarantine restrictions, mill conditions, strikes, differences with workmen, delays in transportation, shortage of cars, fuel, labor or materials, or any cause beyond the reasonable control of the Seller.

**INDEMNIFICATION AND FURTHER ASSURANCES**

Buyer will indemnify, defend and hold harmless Seller against any and all liabilities, whatsoever for damages and/or injuries which may be incurred by Seller by virtue of claims (including claims of failure to warn) arising from or relating to the use(s) to which Seller's product(s) are put by Buyer or Buyer's customers before or after the incorporation of such products into another product, and not from any defect intrinsic to Sellers component product(s) or any warning provided therewith.

**LIMITED WARRANTY/VALVING**

**SELLER WARRANTS THAT ITS PRODUCT WILL BE IN COMPLIANCE WITH DOT, TC, OR OTHER SPECIFICATIONS AS QUOTED OR AS APPEAR ON THE FACE OF THIS DOCUMENT ON THE DATE OF SHIPMENT. THE VALVING OF CYLINDERS IS PERFORMED IN A WORKMANLIKE MANNER; HOWEVER, THE POSSIBILITY OF ENCOUNTERING LEAKERS EXISTS. SELLER DOES NOT ACCEPT THE RESPONSIBILITY FOR COSTS INCURRED THROUGH THE LOSS OF PRODUCT, OR REVALVING, OR ANY DIFFICULTIES ASSOCIATED WITH VALVES OR THE INSERTION OF VALVES.**

If the claimed defect is confirmed by Seller's inspection and the claim is made within one (1) year of the date of shipment, Seller will, at its option and as the purchaser's sole remedy, repair or replace such product or any component part thereof, or refund the original purchase price. This warranty is voided by alterations or by repairs of other. Seller shall not be liable under this warranty, or otherwise, for defects caused by negligence, abuse or misuse of this product, corrosion, fire, heat, or the effects of normal wear. Any related components or other equipment manufactured by others which may be sold with Seller's product are not covered by this warranty. **THE ABOVE EXPRESS WARRANTY IS IN LIEU OF ANY WARRANTY OF MERCHANTABILITY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THIS PRODUCT.**

**THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE. SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES RESULTING FROM THE DELIVERY, USE OR FAILURE OF THE PRODUCT (INCLUDING LOSS OF ANY MATERIALS STORED IN PRODUCT), OR FROM ANY OTHER CAUSE WHATSOEVER. BY ACCEPTING DELIVERY OF THE PRODUCT SOLD HEREUNDER, THE BUYER ACCEPTS THIS LIMITATION OF REMEDIES AS REASONABLE AND ENFORCEABLE. IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE PURCHASE PRICE FOR THE PRODUCT.**

This warranty gives Buyer specific legal rights, and you may also have other rights which vary from State to State.

To make a claim under these warranties, the Buyer must: 1) give Seller written notice within ten (10) days after discovery of a claimed defect; 2) immediately discontinue use of the product; and 3) return such product freight prepaid to the location specified by Seller for evaluation to validate the warranty claim.



**TW Cylinders LLC**