

"Seller" offers to sell the products set forth in this catalog subject to the following terms and conditions:

### 1. Prices and Terms of Payment

Gas prices are F.O.B. our plants. All freight, storage, handling, insurance and other charges relating to shipment F.O.B. our plant or delivery will be for the account of Purchaser. Purchaser will pay the amount of any sales, use of excise taxes imposed by reason of sale or delivery. Terms of payment will be net cash thirty (30) days following date of invoice.

### 2. Warranty

Seller warrants that the products will meet the specifications listed in this catalog, will be adequately contained, packaged and labeled and conform to any promises and affirmations of fact made on the container and label, and, in the case of equipment, will be free from defects in material and workmanship. Upon confirmation, Seller shall replace any product which does not so conform, provided that such product, or an adequate representative sample, is returned to Seller, with transportation charges prepaid and a Seller's return authorization tag firmly affixed. No claim of any kind against Seller with respect to the products, whether or not based on negligence, warranty, strict liability or any other theory of law, shall be greater than the purchase price of the product in respect to which such claim is made. The foregoing constitutes Purchaser's exclusive remedy and Seller's sole obligation with respect to any such claim. THERE ARE NO EXPRESS WARRANTIES BY SELLER (OTHER THAN THOSE SPECIFIED IN THIS PARAGRAPH 2). NO WARRANTIES BY SELLER (OTHER THAN WARRANTY OF TITLE AS PROVIDED IN THE UNIFORM COMMERCIAL CODE) SHALL BE IMPLIED OR OTHERWISE CREATED UNDER THE UNIFORM COMMERCIAL CODE INCLUDING BUT NOT LIMITED TO WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

### 3. WARNING!

SELLER WARNS PURCHASER THAT THERE ARE HAZARDS ASSOCIATED WITH THE USE OF THE GAS PRODUCTS LISTED IN THIS CATALOG. SELLER DIRECTS PURCHASER'S ATTENTION TO THE HAZARDS LISTED IN THIS CATALOG WITH RESPECT TO EACH PURE GAS PRODUCT (AND WHICH ALSO APPLY TO MIXTURES OF THAT GAS).

### 3. WARNING!, continued

IT IS INCUMBENT UPON PURCHASER TO WARN ITS PERSONNEL OF THE HAZARDS ASSOCIATED WITH THE PRODUCTS. PURCHASER ALSO ASSUMES ALL RESPONSIBILITY FOR THE SUITABILITY AND THE RESULTS OF USING PRODUCT ALONE OR IN COMBINATION WITH OTHER ARTICLES OR SUBSTANCES AND IN ANY MANUFACTURING, MEDICAL OR OTHER PROCESS OR PROCEDURE. SELLER WILL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM NON-WILLFUL FAILURE TO DELIVER PRODUCT HEREUNDER.

### 4. Cylinders

Some gas products will be shipped or delivered by Seller in returnable cylinders, and there may be a charge for the use of such cylinders. Purchaser will return all returnable cylinders to Seller in a non-contaminated condition with valves tightly closed and sufficient residual pressure to prevent contamination. All returnable cylinders will remain the property of Seller at all times. Purchaser will pay Seller for any damage, beyond wear and tear, to returnable cylinders while in the possession of Purchaser. \*Gas products shipped or delivered by Seller in lecture bottles (LB) include the cost of the container and are nonreturnable.

### 5. Contingencies

Neither Seller nor Purchaser will be liable to the other party for default or delay in the performance of any of its obligations in connection with the purchase, sale, shipment or delivery of the products, due to Act of God, accident, fire, flood, riot, war, sabotage, explosion, strike, labor disturbance, national defense requirement, governmental law, ordinance, rule or regulation, whether valid or invalid, inability to obtain electricity or other type of energy, raw material, labor, equipment, or transportation, or any similar or different contingency beyond their reasonable control which would make performance commercially impracticable whether or not the contingency is of the same class as those enumerated, it being expressly agreed that such enumeration shall be nonexclusive.

### 6. Entire Agreement

Seller's entire offer and agreement is contained in these terms and conditions and this catalog. Any other or different terms and conditions in any purchase order issued or accepted for the products shall be deemed null and void.