



## STANDARD TERMS AND CONDITIONS OF SALE

**DEFINITIONS.** The term "CONCORDE" means Concorde Specialty Gases, Inc. with principal place of business located at 36 Eaton Rd., Eatontown, NJ 07724. The term "Purchaser" means an individual, corporation, or other entity that has provided CONCORDE with a purchase order for Products or Services and CONCORDE has acknowledged receipt of such order. The term "Parties" refers to CONCORDE and Purchaser collectively. The term "Products" includes, but is not limited to, sulfur hexafluoride (SF6), carbon tetrafluoride (CF4), steel shipping racks, and cylinders used for sale and/or recovery of these gases, which are covered by these Terms and Conditions of Sale. The term "Services" includes, but is not limited to, recovery and installation of SF6 in gas insulated equipment, laboratory analysis services, and equipment decommissioning services. Additional Products or Services desired may be separately specified on an Addendum attached hereto. All deliveries shall be made by CONCORDE F.O.B. shipping point and products may be delivered in gaseous, liquid or chemical form in suitable containers such as gas cylinders or in bulk ton tank vessels. The Parties may from time to time agree upon other shipment and delivery terms by specifying the precise other terms that would apply to the various Products sold by and purchased from CONCORDE. Additional costs for international customs fees, importation fees, broker fees, and international packaging and shipping fees may also apply.

2. **PRICE / PAYMENT.** CONCORDE requires cash in advance payment in full for the first order from any new Purchaser in the form of credit card, wire transfer, or check. If Purchaser qualifies for Net 30-day credit terms on future orders, the following applies: (a) Payments shall be due not later than 30 days from the date of CONCORDE's invoice. Thereafter, unpaid balances shall incur interest at the rate of 1% per month or 12% on an annualized basis for any unpaid balances which are past due. In addition, purchaser shall pay all amounts invoiced by CONCORDE for rental cylinders as herein agreed.

(b) Any tax, assessment, tariff, import, export or excise imposed by any present or future law or by any governmental authority in connection with any Product sold or delivered hereunder, if paid, or to be paid by CONCORDE as the result of its performance under this Agreement shall be an additional charge to be paid by the Purchaser. Purchaser shall also reimburse CONCORDE for increases in the cost of power or raw materials used in the production of Product sold hereunder, increases in the cost of fuel required for the transportation and delivery of Product and a governmental regulation compliance charge. No such increases or changes in the foregoing charges shall constitute price increases hereunder. Notwithstanding the foregoing, the Parties may agree to other modes of transportation, delivery, export and import responsibilities on a product-by-product basis as described on an issued and accepted purchase order or Addendum to these Terms and Conditions of Sale.

3. **WARRANTY.** All products delivered under this Agreement shall comply with CONCORDE and Purchaser agreed Product specification, or if no specification is provided CONCORDE will supply virgin SF6 Product that meets or exceeds ASTM D2472 specification and recycled/reclaimed SF6 that meets or exceeds IEC 60480 recycled gas specification. Any quantity of Product shown by a recognized standard test to deviate from specification may be rejected by Purchaser, in its discretion, but CONCORDE reserves the right to confirm test results of all Product so rejected. If material is determined to be within specification by an independent third-party lab, Purchaser will be responsible for freight and laboratory test charges CONCORDE incurred. Cylinders rented by CONCORDE shall be in test and in good operating condition. **THERE IS NO WARRANTY OF MERCHANTABILITY AND NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, THAT EXTEND BEYOND SAID DESCRIPTION OF PRODUCT OR WITH RESPECT TO CYLINDERS.**

4. **CLAIMS.** (a) All claims by Purchaser for either Products delivered or Services rendered by CONCORDE must be made in writing within thirty (30) days after the alleged breach of this contract. Failure by Purchaser to give such written notice shall constitute a complete defense for CONCORDE against all such claims. (b) CONCORDE transaction documents, including agreements, invoices and cylinder rental statements, shall be presumed to be correct; but Purchaser shall have thirty (30) days from the date of the document to give written notice of any inaccuracy. Failure to do so shall constitute a waiver of Purchaser's right to contest the accuracy of the document.

5. **EXCUSED NON-PERFORMANCE.** Either party's performance hereunder (except the obligation to pay money when due) shall be subject to floods, strikes or other labor disturbances, fires, accidents, wars, delays of carriers, inability to obtain power or fuel, machinery breakdown, abnormal demand, failure of normal sources of supply, pandemics, restraints of government, or any other similar or dissimilar cause beyond such party's reasonable control. Deliveries shall be made by CONCORDE from the plant normally serving Purchaser. If sufficient product from such plant becomes unavailable for any reason, CONCORDE may divide the available production among its various customers. CONCORDE shall then exercise reasonable efforts to obtain replacement Product from other sources, either within or separate from CONCORDE, on a temporary basis until sufficient Product from such plant is again available. Purchaser shall be promptly notified of the foregoing and shall have the right to decline any such temporary replacement Product to the extent that such production is so unavailable, but shall pay all additional costs associated with any such Products which it accepts.

### 6. **ALLOCATIONS OF RESPONSIBILITY.**

(a) NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER ANY CIRCUMSTANCES, INCLUDING ANY WITHOUT LIMITATION, CONSEQUENTIAL DAMAGES CAUSED BY OR ARISING OUT OF, IN WHOLE OR IN PART, ANY NEGLIGENT ACT OR OMISSION OR RELATED TO STRICT LIABILITY.

(b) Purchaser's exclusive remedy for each unexcused failure or act on the part of CONCORDE whether the Product fails to

meet CONCORDE's commercial standards of purity which is delivered to Purchaser, including any quantity deviation, whether or not such failure or act was, in whole or in part, negligent, or could be the basis of a claim on the grounds of strict liability, shall be to receive a refund of the price of such quantity of non-conforming Product or corresponding value of the shortage of Product, or the replacement thereof with Product meeting such description at no additional charge to Purchaser.

(c) Purchaser shall be responsible for advising its' employees, agents or contractors handling the Products with respect to any proper handling procedures and all safety related data (in accordance with the applicable Safety Data Sheet which Purchaser acknowledges that this has been provided to Purchaser for the Products) and information and once the Products are delivered to Purchaser or made available to Purchaser's transportation shipper from CONCORDE's plant. The Products are sold on the condition that they will handled, used and disposed of in conformance with recognized industry and professional standards, including those related to the protection of human health and the environment. Purchaser acknowledges that there are hazards associated with the use of Products, that it understands such hazards, and that it is the responsibility of Purchaser to warn and protect those exposed to such hazards. Purchaser shall assume all risk of loss and Purchaser shall indemnify and hold CONCORDE harmless for any and all claims, damages, losses, of any kind, whether due to personal injuries or property damage, including reimbursement of attorney's fees if applicable.

#### 7. RENTAL OF CYLINDERS OR STEEL RACKS.

(a) All cylinders, ton tanks, or racks which are rented by CONCORDE to Purchaser and not sold shall remain the property of CONCORDE and shall be returned by the Purchaser to CONCORDE facility designated on the shipping document, freight prepaid and with valves tightly closed with cylinder caps attached.

(b) The Purchaser will not permit CONCORDE cylinders to be refilled with any gas, liquid, or solid and will not permit the use of oil, grease, or any other lubricant on cylinders, its valves, or its fittings. The Purchaser shall be responsible for and pay promptly for any loss or damage to cylinders and/or caps and valves. Purchaser is responsible for any cylinder or rack movement from the initial ship-to location and responsible for tracking and promptly returning to CONCORDE after the Product use is completed. Purchaser shall not loan or cede control of any cylinder or rack to a third party without the prior written consent of CONCORDE nor shall Purchaser alter any CONCORDE markings on any cylinder, including but not limited to changing neck-rings or fittings. Purchaser shall be responsible for and pay promptly for any damage to cylinders or racks at standard prices then in effect.

(c) Any cylinders, ton tanks, or racks remaining on rental for greater than two years will need to be returned to Concorde immediately, upon notification by CONCORDE, or Purchaser will be billed for the full cylinder replacement price based on current market conditions. Once invoices for cylinder, ton tank, or rack replacement cost have been paid, those Products then become property of the Purchaser.

(d) Purchaser shall comply with all rules, regulations and safety precautions relating to the use, storage, and handling of cylinders that are promulgated by the Compressed Gas Association (CGA), the U.S. Department of Transportation (DOT) or any other government body or agency applicable to where the Products or cylinders are resold or used. CONCORDE shall have the right to periodically inspect the Purchaser's location(s) during normal business hours to assure compliance by the Purchaser with the terms of this agreement.

8. CONTRACTUAL. (a) These Terms and Conditions shall be binding on both parties upon CONCORDE's acceptance in writing, of a purchase order from Purchaser. This constitutes the entire agreement between CONCORDE and Purchaser relating to the purchase and sale of Products and rental of cylinders as well as any Services to be provided. No change, modification, discharge or waiver of or addition to any of said provisions shall be binding upon CONCORDE, unless set forth in writing, specifically identified as such and accepted by a duly authorized representative of CONCORDE, and no such change modification, discharge or waiver of or addition to any of said provisions shall be affected by any acknowledgement or acceptance by CONCORDE of any purchase order acknowledgement or other form submitted by Purchaser specifying delivery dates, quantities or locations containing different or additional provisions. These Terms and Conditions shall inure to the benefit of CONCORDE and Purchaser and their respective successors and assigns.

(b) Purchaser may, from time to time, use purchase orders, acknowledgements or other instruments to order, acknowledge or specify delivery times, quantities or other similar specific matters concerning the Products and Services or relating to performance of services hereunder, but the same are intended for convenience and record purposes only and any provisions which may be contained therein are not intended to (nor shall they serve to) add to or otherwise amend or modify any provision, even if signed or accepted on the behalf of CONCORDE with or without qualification.

(c) Purchaser consents to venue and personal jurisdiction in Monmouth County, State of New Jersey, USA. Purchaser agrees to be liable for CONCORDE's reasonable attorney fees and costs in the event CONCORDE is required to enforce the terms of the agreement. The laws of the State of New Jersey, USA shall apply.

9. NOTICES. Unless otherwise provided herein, all notices shall be in writing, addressed to the intended recipient at the address on the first page hereof or such address as the Purchaser may provide, and given via the following methods: hand delivered, sent by overnight courier providing proof of delivery, or sent by email to an address provided by the recipient for such purpose, and shall be deemed to have been given on the date such notice is hand delivered or sent, as applicable. Notices of excuse of performance, allocation, adjustments to prices or charges (including the establishment of any surcharges) provided hereunder may also be sent by U.S. mail and shall be deemed to have been given two business days after being deposited with the U.S. Postal Service.

10. GENERAL. The Terms and Conditions contained herein are effective with any official purchase order issued by Purchaser and received by CONCORDE but no other terms and conditions will be accepted unless specifically agreed to in writing by both Parties.

11. CANCELLATION OF ORDERS. In the event of an order cancellation or return of unused goods meeting the applicable product specification, there will be a 15% restocking fee applied. Returned containers need to be in new, unused condition with original shrink-wrap intact. Purchaser will be responsible for roundtrip freight costs.