

METALTECH SERVICE CENTER, INC. ("Metaltech")
TERMS AND CONDITIONS

1. **Payment Terms.** For customers with established credit, terms are net thirty (30) days from date of invoice unless otherwise agreed in writing ("Payment Term"). If Customer fails to make payments within the Payment Term, Metaltech may defer any further shipments until such payment is made and/or cancel all or any part of an unshipped order. Customer agrees to pay interest of 1.5% per month on all invoices not paid within the Payment Term, plus costs of collection.
2. **Taxes.** Metaltech is required to charge applicable state and local tax on every item for which a sales tax exemption has not been provided. When ordering please indicate clearly which items are tax exempt, the nature of the exemption and provide a written exemption certificate or resale certificate. All such taxes shall be added to the purchase price.
3. **Order Cancellation.** Orders for products not normally in stock or requiring special orders or otherwise requiring special attention are not subject to cancellation by the Customer. Further, cancellation of all other orders are subject to a restocking charge that depend on the type material, processing costs, freight costs and other factors.
4. **Title and Risk of Loss.** Title and risk of loss pass to Customer at Metaltech's loading docks at 9915 Monroe, Houston, Texas 77075.
5. **Inspection.** Unless Customer gives Metaltech written notice of each defect, shortage or irregularity, whether patent or latent, of an item of material within three (3) business days after actual receipt by Customer, it shall be conclusively presumed between Customer and Metaltech that each item of material was delivered complete and without any defects, shortages or irregularities and that Customer has accepted it as an item of material described on the purchase order and on the face hereof and conforming thereto; and it is specifically agreed between Customer and the Metaltech that three (3) business days actual receipt by Customer of an item of material is reasonable time for Customer to inspect and give notice as herein provided.
6. **Limited Warranty.** Metaltech warrants that all material supplied under these Terms and Conditions shall be in compliance with any standards or specifications contained in the purchase order. **METALTECH MAKES NO EXPRESS OR IMPLIED WARRANTIES, NO WARRANTY OF MERCHANTABILITY, NO WARRANTIES OF FITNESS, AND NO WARRANTIES WHICH EXTEND BEYOND THOSE CONTAINED HEREIN.** Metaltech disclaims any liability for material defect claims that are due to material misuse, improper material selection or misapplication. Customer assumes all responsibility and liability for the adequacy of design or strength of any material. Metaltech does not assume liability for damage to the materials due to corrosion, abrasives and other forms of wear normally expected for which such material is intended.
7. **Limitation of Liability.** Metaltech's liability in all events is limited to, and shall not exceed the purchase price paid by Customer for the material. Any liability for consequential and incidental damages including lost profits, cost to substitute, etc., whether as a result of a breach of contract, warranty, negligence or gross negligence is expressly disclaimed. Metaltech shall not be liable for any delay in the production, delivery, or use of any of the material covered hereby. The Customer expressly for itself, its customers, and its successors and assigns agrees that Metaltech shall not be liable for consequential or special damages of any kind whatsoever and **THE CUSTOMER HEREBY AGREES TO INDEMNIFY METALTECH AND HOLD IT HARMLESS FROM AND AGAINST ALL LIABILITIES, COSTS, EXPENSES AND SPECIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING REASONABLE ATTORNEY'S FEES) SUFFERED OR INCURRED BY METALTECH AS THE RESULT OF CUSTOMER, OR ANYONE TO WHOM CUSTOMER HAS DIRECTLY OR INDIRECTLY SOLD THE MATERIAL ATTEMPTING TO HOLD OR IN FACT HOLDING, METALTECH LIABLE FOR CONSEQUENTIAL OR SPECIAL DAMAGES.**
8. **Modification of Terms.** Metaltech acceptance of any order is subject to Customer's assent to all of the terms and conditions set forth in these Terms and Conditions. Metaltech's acknowledgment and Customer's assent to these Terms and Conditions shall be presumed from Customer's receipt of Metaltech's acknowledgment or from Customer's acceptance of all or any part of the goods or services ordered. No addition or modification of these Terms and Conditions shall be binding upon Metaltech unless agreed to by Metaltech in writing. If a purchase order or other correspondence contains terms or conditions contrary to these Terms and Conditions, Metaltech's acceptance of any order shall not be construed as assent to any additional terms and conditions nor will Metaltech's acceptance of an order constitute a waiver by Metaltech of any of the terms and conditions contained in Metaltech's Terms and Conditions.
9. **Quote.** The quote is an offer to sell material and is only good for ten (10) business days unless otherwise stated. Further, a quote shall become a mutually binding agreement when accepted on the face hereof by the Customer within such ten (10) day period or upon receipt of the Customer's order for the material and/or services specified on the face hereof within such ten (10) day period.
10. **Governing Law.** This agreement shall be interpreted under the laws of the State of Texas and is performable in Harris County, Texas. Any term or condition not otherwise addressed herein shall be governed by the Texas Uniform Commercial Code.
11. **Binding Agreement.** Except as otherwise mutually agreed in writing, this document is the complete agreement between Metaltech and the Customer and supercedes all other agreements or understandings whether written or oral.