

## Metro-Tex Fabricators, Inc. Standard Terms of Sale

1. General. These terms govern all transactions between Metro-Tex Fabricators, Inc. ("Metro-Tex") and Customer. Metro-Tex's prices are based on these sales terms. This document, together with any additional writing signed by Metro-Tex, represents a complete and exclusive statement of the agreement between the parties and may not be modified or supplemented by oral representations, Customer's purchase order, a course of dealing, Metro-Tex's performance or delivery, or in any other way. OBJECTION IS MADE TO ANY SUCH ATTEMPTED MODIFICATION OR SUPPLEMENTATION. These terms cover all activity of Metro-Tex and Customer, including sales and use of products and all related matters, including technical advice and services. Catalogues, circulars, and similar pamphlets of Metro-Tex are issued for general information purposes only and do not modify the provisions hereof. To the extent not otherwise provided herein, the terms of this Agreement are those provided by the Uniform Commercial Code in effect in the State of Texas on the date hereof which would be provided if the parties were silent as to those terms.

2. Delivery. Unless otherwise specifically stated in writing as to a particular order, dates stated for deliveries are estimates only. Metro-Tex will not be liable for delays resulting from causes beyond its reasonable control, including without limitation, the inability to obtain component parts or raw materials or the destruction thereof or the ordered products. Metro-Tex may make partial deliveries and invoice separately for each delivery. Metro-Tex may allocate shipments among its customers in the event of any shortage of materials or transportation. Delivery shall be made F.O.B. Metro-Tex's warehouse in Houston, Texas unless a different delivery point is specified in writing as to a particular order. In the event transportation is arranged by Metro-Tex and the price for such transportation is increased, then Metro-Tex may charge Customer for such increase. METRO-TEX SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LATE PERFORMANCE, FOR FAILURE TO PERFORM, OR FOR ANY OTHER REASON. Customer shall inspect and accept or reject each shipment within 20 days after delivery. Failure to timely reject shall be deemed an acceptance. Acceptances shall be irrevocable. The price includes standard packing for normal shipping. Special packing shall be at Customer's expense.

3. Payment. Metro-Tex's invoices shall be paid according to their terms without setoffs or deductions of any kind at Metro-Tex's office in Houston, Harris County, Texas. Metro-Tex may from time to time in its discretion demand different terms of payment from those specified herein or as may be specified in any invoice. Metro-Tex retains title in all items sold until full payment is received. Amounts not timely paid, whether related to this order or any other indebtedness, shall bear interest at the rate of the lesser of (i) eighteen percent per annum or (ii) the maximum nonusurious contract rate of interest permitted by law. Customer grants Metro-Tex a security interest in the items sold hereunder, replacements therefor, additions thereto, and products made therefrom and all other items heretofore or hereafter sold by Metro-Tex to Customer to secure Customer's present or future obligations to Metro-Tex. Customer authorizes Metro-Tex to file a financing statement. Customer will not change the state of its incorporation without giving Metro-Tex prior written notice thereof. Metro-Tex may offset any monies it owes Customer against monies owed by Customer to Metro-Tex.

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4. WARRANTY AND LIABILITY. Metro-Tex products are intended for sale to industrial and commercial customers. WARRANTIES OF PRODUCTS MAY BE SUPPLIED BY THEIR MANUFACTURERS. EXCEPT AS SPECIFICALLY STATED IN A SEPARATE WRITTEN PRODUCT WARRANTY ISSUED BY METRO-TEX, METRO-TEX DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) AND ANY AGREEMENTS, REPRESENTATIONS, AFFIRMATIONS, OR WARRANTIES, WHETHER ORAL OR WRITTEN, MADE BY ANY AGENT, EMPLOYEE, OR REPRESENTATIVE OF METRO-TEX. Metro-Tex makes no warranties regarding patent rights. All patent rights are reserved. METRO-TEX SHALL NOT BE LIABLE FOR LOSSES FOR DOWNTIME, OVERHEAD, NEGLIGENCE OF CUSTOMER OR OF METRO-TEX OR ANY OF THEIR EMPLOYEES OR AGENTS, PROPERTY DAMAGE, LOST PRODUCTION OR PROFITS OR FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND ARISING FROM THE DELIVERY, SALE, USE, MAINTENANCE, PROCESSING, DESIGN, FORMULATION, OR OPERATION OF THE ITEMS SOLD HEREUNDER. The total liability of Metro-Tex on any claim, whether in contract, tort (including negligence) or otherwise, arising out of, connected with or resulting from the design, formulation, manufacture, sale, delivery, resale, repair, replacement, or use of any item sold or serviced hereunder will not exceed the price allocable to the product or any part thereof which gives rise to the claim. Except as otherwise provided in a written express warranty, if any warranty is given, Metro-Tex shall, at its option, repair or replace the defective goods or services or refund the portion of the purchase price attributable to the defective goods or services, and Metro-Tex shall have no other liability for breach of warranty. If any models, samples, technical literature, illustrations, catalogues or other documents have been shown to Customer, they shall not give rise to any express or implied warranty.

5. LAW AND DISPUTES. This agreement shall be governed by and construed according to the laws of the State of Texas (except those relating to conflict of laws). Any controversy or claim arising out of or related to this contract or any sale by Metro-Tex to Customer shall be determined by binding arbitration conducted in Houston, Texas in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. The prevailing party shall be entitled to reasonable attorneys' fees and expenses of enforcement. Every cause of action based on this Agreement by Customer or the items sold or serviced hereunder against Metro-Tex shall be brought not later than two years and one day after accrual.

6. Taxes. Customer shall be responsible for all sales, use, or other similar taxes imposed on this transaction, whether or not included in Metro-Tex's invoice. If Customer fails to timely submit resale exemption information or if Customer's resale exemption is rejected by a taxing authority, Customer shall pay any tax due as a result.

7. INDEMNITY. CUSTOMER WILL INDEMNIFY, DEFEND, AND HOLD METRO-TEX AND METRO-TEX'S EMPLOYEES AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, DAMAGES, LIABILITIES, JUDGMENTS, COSTS, AND EXPENSES (INCLUDING ATTORNEYS FEES) TO WHICH ANY INDEMNITTEE HEREUNDER MAY BECOME SUBJECT ARISING FROM OR IN ANY WAY RELATED TO THE MISUSE OR IMPROPER INSTALLATION OF THE PRODUCTS SOLD OR SERVICES PROVIDED HEREUNDER,

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REGARDLESS OF CAUSE. METRO-TEX SHALL BE ENTITLED TO CONTROL THE DEFENSE OF ANY CLAIM SUBJECT TO INDEMNIFICATION HEREUNDER, INCLUDING THE RIGHT TO COMPROMISE, WITH COUNSEL SELECTED BY IT.

8. Authorizations. Customer is solely responsible for the timely procurement of any necessary government authorizations, including, without limitation, export or import licenses and exchange permits. If Metro-Tex applies for any such authorization, it does so as a convenience for Customer and Metro-Tex shall have no responsibility for any errors therein or failure to pursue or obtain an authorization. Customer will comply with any applicable export control law and regulations.

9. Customer's Credit Standing. If, in the judgment of Metro-Tex, Customer's financial standing or condition does not justify continuance of production or shipment on the terms specified, Metro-Tex shall have the right to require Customer to provide such additional security to Metro-Tex as Metro-Tex may require, including requiring Customer to execute additional security agreements in such form as Metro-Tex shall deem appropriate, or to make full or partial payment of the price. If Customer shall fail to provide security acceptable to Metro-Tex and/or make the payment required, Metro-Tex shall be entitled to cancel this agreement without incurring any liability to Customer and without prejudice to its claim for damages against Customer.

10. Modifications and Safety. Customer shall not alter or modify the purchased products nor knowingly permit any other person to do so. Specifically, but without limitation, Customer shall not remove or obscure any warning or instructional label and shall provide any subsequent purchasers or users of the purchased products with the instructional, maintenance, and cautionary materials provided by Metro-Tex from time to time. Customer shall replace warning and instructional labels as needed.

11. Returns. Purchased products may be returned only with the prior written consent of Metro-Tex. Metro-Tex may impose a restocking charge upon any return.