

## TERMS AND CONDITIONS

- All sales are net terms cash (U.S. Dollars). Prices are subject to change with written notice.
- All shipments will be made Ex-Works (EXW) final shipment facility. Goods to be loaded by SELLER.
- No provision set forth in any purchase order, order confirmation form or another writing pertaining to an order placed hereunder which is inconsistent with or in addition to the terms of the Agreement shall be binding on either party unless separately signed by both parties.
- SHIPMENTS** – SELLER shall not be liable for any charges claimed resulting from delay in shipment of the goods after the date of shipment specified herein unless date of shipment is expressly stated herein to be of essence of the agreement. CUSTOMER agrees to accept any quantities shipped hereunder which do not vary by more than ten (10) percent from the agreement amount and to pay for such quantities at the agreement price.
- TITLE AND RISK OF LOSS** – Title to and risk of loss of the goods herein described shall pass to CUSTOMER upon delivery of said goods to a carrier at SELLER's plant. Title to and risk of loss of said goods shall pass to CUSTOMER in no other way, notwithstanding any agreement to the contrary, including, but not by way of limitation, any agreement to pay freight, express, or other transportation or insurance charges.
- PAYMENT AND PRICES** – SELLER may, at its option, draw at sight on CUSTOMER or require CUSTOMER to obtain an irrevocable letter of credit in favor of SELLER from an issuer acceptable to SELLER. In the event SELLER does not so draw or require such letter of credit, payment by CUSTOMER shall become due thirty (30) days after receipt of SELLER's invoice covering a particular shipment. Terms of payment by CUSTOMER, as hereinabove set forth, are of the essence of this agreement, and in the event of failure by CUSTOMER to make payment when due, SELLER may decline to make further shipments until such default is cured. In the alternative, SELLER may elect to continue to make shipments despite the continuance of such default, but such election by SELLER shall in no way constitute a waiver of such default nor affect SELLER's legal remedies therefor. In the event any invoice is not paid when due, CUSTOMER shall pay SELLER interest on the balance due from the date of invoice until paid at the rate of one and a half percent (1-1/2%) per month, or the maximum rate allowed by the applicable usury law, whichever rate is less. In addition, if it becomes necessary to place CUSTOMER's account with an attorney or other agency for collection, CUSTOMER shall be responsible for, and indemnify SELLER against, all costs and expenses (including attorneys' fees) and/or collection fees, incurred by SELLER in connection therewith. In no event shall any charges for engineering services imply a conveyance of any design and/or manufacturing rights as to the goods herein described, unless such conveyance is expressly set forth on the face hereof.
- TAXES, DUTIES AND CLEARANCE EXPENSES** – CUSTOMER assumes full responsibility, including reporting and payment, of all taxes, however designated, or other government charges arising out of, levied or based upon, or in connection with the sale of the goods herein described, including state and local privilege, sales and use, or excise taxes based on gross revenue or any taxes or amounts in lieu thereof paid or payable by SELLER in respect of the foregoing, exclusive, however, of taxes paid on net income. SELLER's invoice may include any such taxes and any expense incurred by SELLER in shipping the goods to the destination specified by the CUSTOMER.
- UNLOADING AND CONTAINERS** – CUSTOMER shall unload and release all transportation equipment promptly so no demurrage or other expense or loss resulting from delay shall be incurred. CUSTOMER shall comply with such instructions, if any, as SELLER may give for return of such equipment. In the event CUSTOMER is to return containers, it shall return same promptly, freight collect to the point specified by SELLER. CUSTOMER shall pay to SELLER on demand as a deposit on each container such reasonable amount as may be fixed from time to time by SELLER, and the amount of the deposit shall be refunded to the CUSTOMER if the container on which the deposit is made is returned to SELLER in good condition to the point specified by SELLER within ninety (90) days from the date of actual shipment to CUSTOMER and if upon inspection SELLER determines it is reusable.
- FREIGHT AND INSURANCE** – CUSTOMER is responsible for all freight costs. In the event CUSTOMER desires to use a more expensive means of transportation or routing, CUSTOMER shall pay any extra cost involved. CUSTOMER shall pay to Seller any increase in freight subsequent to the date hereof. CUSTOMER or CUSTOMER'S customer shall insure the goods described herein (if sold for shipment outside the United States) on behalf of Seller until arrival of such goods at the port-of-destination, and Seller shall be named as a loss payee or the proceeds of such insurance shall be assigned to Seller.
- WARRANTY** – SELLER warrants that the goods herein described shall conform to SELLER's standard specifications in effect at the time of shipment (or such other specifications expressly agreed to by the SELLER in writing) under normal conditions of usage and service for ninety (90) days from date of shipment. SELLER's obligation under this warranty is limited to and shall be fully discharged by repairing or replacing any defective part f.o.b. its works. SELLER shall not be liable for repair or alterations made without SELLER's prior written approval. SELLER shall not be liable for damages or delay caused by defective goods, including, without limitation, defects in material.  
EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 10 AND SECTION 13, SELLER MAKES NO OTHER REPRESENTATION, GUARANTEE OR WARRANTY (WRITTEN OR ORAL, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE) OF ANY KIND OR NATURE AND IN PARTICULAR, AND WITHOUT LIMITATION, SELLER EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE GOODS SUPPLIED HEREUNDER, WHETHER USED SINGLY OR IN COMBINATION WITH OTHER MATERIALS OR IN ANY PROCESS OR OTHERWISE.
- LIMITATION OF LIABILITY** – SELLER'S TOTAL LIABILITY TO CUSTOMER FOR DAMAGES FOR ANY AND ALL CLAIMS, LOSSES OR DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER IN RELATION TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY, BREACH OF WARRANTY OR OTHER CAUSE, SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE PARTICULAR SHIPMENT WITH RESPECT TO WHICH SUCH DAMAGES ARE CLAIMED. NOTWITHSTANDING THE FOREGOING SENTENCE, IN NO CIRCUMSTANCE SHALL SELLER BE LIABLE FOR DAMAGES FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS OR LOST PROFITS, OR ANY OTHER SPECIAL, EXEMPLARY, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND. CUSTOMER assumes all risk of liability for loss, damage, or injury to (or death of) persons or property of CUSTOMER or others arising out of the use or possession of the goods herein described.
- CLAIMS** – Within twenty (20) days after tender of delivery to or receipt by CUSTOMER of any shipment and before any part of such goods (except for reasonable test and inspection quantities) has been changed from its original condition, CUSTOMER shall inform SELLER in writing if said goods are found defective or short in any respect. Failure to so inform SELLER or use of said goods (except for reasonable test and inspection quantities) shall be conclusive that SELLER has satisfactorily performed. Any action for breach, other than non-payment, must be commenced within one (1) year after the date of delivery, or due date of delivery in the event of non-delivery, of the particular shipment upon which such claim is based or otherwise it shall be barred.
- PATENT INFRINGEMENT** – SELLER warrants that, to SELLER's knowledge, the product supplied hereunder does not infringe any United States product patent extant as of the date hereof covering the product itself, but does not warrant against infringement by reason of the use thereof or in combination with any other material that CUSTOMER treats, processes or uses in any manner.
- TERMINATION** – SELLER shall have the immediate right to terminate this agreement upon written notice to CUSTOMER in the event that:  
(a) CUSTOMER is in material breach of any of the provisions of this agreement and does not remedy such default within five (5) days after such notice is given by SELLER; or  
(b) CUSTOMER (i) ceases to function as a going concern, (ii) makes an assignment for the benefit of its creditors, (iii) becomes the subject of any proceeding under applicable bankruptcy, receivership, insolvency or similar laws instituted by or against CUSTOMER, or (iv) liquidates, dissolves, sells substantially all of its assets, merges or consolidates (except with a company controlled by CUSTOMER).
- FORCE MAJEURE** – Neither party to this agreement shall be liable for any loss or damage of any nature whatsoever incurred or suffered or any failure or delays in performance due to any causes or circumstance beyond its control, including, but not by way of limitation, any failures or delays in performance caused by strikes, lockouts, or labor disputes, fires, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with the laws of the United States of America or with the orders of policies of any government authority, delays in transit or delivery on the part of transportation companies or communication facilities, or failures of source of raw materials. In such event, SELLER may, at its option, make deliveries ratably with reference to itself and all its customers.
- AMENDMENT, WAIVER, AND GOVERNING LAW** - Any modification to these conditions of sale will not be binding upon SELLER until accepted and countersigned on its behalf by an officer or other authorized representative. SELLER's waiver of any breach or failure to enforce any of the terms and conditions of this agreement at any time shall not in anyway affect, limit, or waive SELLER's right thereafter to enforce and compel strict compliance with the terms and conditions thereof. This agreement shall be governed by and construed in accordance with the laws of the State of Delaware, U.S.A., disregarding its conflicts of law provisions, and the terms and conditions stated herein shall bind and inure to the benefit of the parties hereto, their successors and permitted assigns.

## RETURNS

If you are dissatisfied with the product due to a quality related problem, please begin the process below within ninety (90) days of invoicing:

- Notify Metglas, Inc. Customer Service Representative at 1-800-581-7654 or your regional sales representative to request a Return Material Authorization (RMA) from Customer Service
- Upon mutually agreed issuance of the Return Material Authorization, return the product to Metglas within sixty (60) days of receiving your RMA. Material must be packaged securely, must be in good condition upon arrival and must clearly indicate the RMA number.
- A valid complaint will be credited within twenty (20) days of receipt of material.