

## HTG TERMS AND CONDITIONS OF GOODS OR SERVICES

Any goods or services sold or provided to customer by HI TecMetal Group (HTG) are sold or provided solely pursuant to the Terms and Conditions hereinafter set forth, and any of the Customer's terms or conditions, in addition to or different from those contained herein, whether added to this form or contained in any purchase order, acknowledgement, confirmation or other document prepared or submitted by deemed acceptance of these terms.

1. **Payment** All payment shall be in legal tender of the United States of America. In the event Customer fails to make payment in full within the time period set forth herein, or within the time period expressly agreed upon in writing by the parties, such failure to pay on time constitutes a material breach of contract by Customer and permits HTG to suspend delivery under any contract between attorney's fees and other related costs and expenses incurred by HTG in bringing and prosecuting such action.
2. **Prices** The prices set forth on this quote are not discounted unless expressly stated on this quote.
3. **Taxes** All prices are quoted exclusive of taxes. All taxes applicable to any order placed hereunder, including, but not limited to, Ohio or other applicable sales or use taxes, are additional and, to the extent legally permissible, shall be paid by the Customer.
4. **Shipping** All prices are F.O.B. HTG's facility referenced on the reverse side hereof. All freight and shipping costs shall be the responsibility of the Customer, unless specifically noted on the quotation.
5. **Finance Charge** A Finance charge of the lesser of 1-1/2 % per month, 18% ANNUAL PERCENTAGE RATE, or the highest rate permitted by law, shall be charged on all amounts unpaid thirty (30) days after the date of HTG's invoice.
6. **Force Majeure** HTG shall not be deemed to be in default of any of its obligations hereunder due to any delays caused by acts of God, fires, floods, strikes, work stoppages, equipment failure, power failures or outages, accidents, allocations, or other controls or regulations of federal, state or other local government, shortages of cars, fuels, power, materials or labor or any other cause beyond its reasonable control.
7. **Inspection and Claims** It is Customer's obligation to inspect all goods, whether processed or purchased, upon receipt. All claims of any nature shall be barred unless written notice thereof is received by HTG within five (5) days after receipt of the goods, whether purchased or processed, and the goods relating to such claims are held intact and properly protected, unless instructed otherwise, in writing, by HTG pending inspection by HTG's authorized inspector. **FAILURE TO NOTIFY HTG OF ANY NON-CONFORMANCE WITHIN FIVE (5) DAYS AFTER RECEIPT OF ANY PURCHASED OR PROCESSED GOODS SHALL CONSTITUTE ACCEPTANCE OF SUCH GOODS AND WAIVER OF ALL CLAIMS WITH RESPECT TO ANY NON-CONFORMANCE.**
8. **Transportation and the Risk of Loss** Upon delivery to a common carrier, Customer or Customer's agents or representatives, of any goods processed or purchased here under, the risk of loss or damage to such goods shall pass to Customer, and HTG shall have no further liability therefore.
9. **Customer Insolvency** HTG shall have the unrestricted right to cancel, withhold, or delay its performance or deliver in the event of the happening of any of the following or any other comparable events, in which HTG shall have no liability for any losses or damages claimed by Customer: (i) Customer's failure to timely pay any obligation to HTG (ii) Customer's insolvency or commission of an act of bankruptcy, (iii) commencement proceedings by, for, or against Customer under any law relating to bankruptcy or the relief of debtors, (iv) the appointment of a receiver or trustee for Customer, (v) the execution by Customer of an assignment for the benefit of the creditors, and (vi) the determination by HTG in its sole judgment, that Customer's financial condition is such to endanger its performance hereunder.
10. **Warranty**
  - a. **Processing** HTG warrants only that it will process all materials furnished by the Customer pursuant hereto in compliance with the written specifications set forth or referenced on the face hereof. Customer acknowledges that even if all processing is properly performed and all goods furnished by Customer for processing complied with proper specifications, it is normal and to be expected that some of the goods can be damaged by processing. Consequently, HTG shall be permitted an annual cumulative scrap allowance of 1.5% of all goods processed each year.
  - b. **Sale of Goods** HTG warrants only that all goods sold pursuant hereto will meet the written specifications set forth or reference on the quote. **THE AFORESAID ARE THE ONLY WARRANTIES GIVE BY HTG AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY. SPECIFICALLY, THERE ARE NO WARRANTIES OF MECHANABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY EXCLUDED.**
11. **Limitation of Remedy**
  - a. **Processing or Services** CUSTOMER'S EXCLUSIVE REMEDY FOR ANY DEFECTIVE OR NONCONFORMING PROCESSING OR SERVICES SHALL BE, AT HTG'S SOLE OPTION, TO (i)REPROCESSING, (ii)CREDITING CUSTOMER'S ACCOUNT FOR SO MUCH OF THE PROCESSING CHARGES AS RELATE TO ANY NONCONFORMING PROCESSING, OR (iii)REFUNDING THE HTG'S CHARGES FOR ANY NONCONFORMING PROCESSING.
  - b. **Sales of Goods** CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO ANY GOODS PURCHASED HEREUNDER THAT ARE FOUND TO BE DEFECTIVE OR OTHERWISE NOT IN CONFORMITY WITH THIS CONTRACT SHALL BE LIMITED, AT HTG'S SOLE OPTION, TO (A) REPLACEMENT OF ANY DEFECTIVE OR NON-CONFORMING GOODS OR COMPONENT THEREOF, (B) CREDITING CUSTOMER'S ACCOUNT FOR SO MUCH OF THE PURCHASE PRICES AS RELATES TO ANY DEFECTIVE OR NON-CONFORMING GOODS, OR (C) REFUNDING THE PRICE PAID FOR ANY DEFECTIVE OR NON-CONFORMING GOODS.
12. **Limitation of Liability**
  - a. **Processing or Services** HTG'S LIABILITY WITH RESPECT TO ANY PROCESSING OR SERVICES PROVIDED HEREUNDER SHALL BE LIMITED TO, AND SHALL IN NO EVENT EXCEED, TWICE HTG'S CHARGES FOR SUCH PROCESSING ON SERVICES.
  - b. **Sales of Goods** HTG'S LIABILITY FOR DEFECTIVE OR NON-CONFORMING GOODS SOLD PURSUANT HERETO, SHALL BE LIMITED TO, AND SHALL IN NO EVENT EXCEED THE AMOUNT PAID BY CUSTOMER FOR SUCH DEFECTIVE OR NON-CONFORMING GOODS.

**UNDER NO CIRCUMSTANCES SHALL HTG BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR FOR LOST PROFITS.**
13. **Limitation of Action** In no event may any claim by Customer arising from or relation to any agreement, order or sale of any goods or services referenced herein be brought more than one year after the date of delivery or the date such claim arose, whichever shall be earlier.
14. **Claims** Any claim by Customer for defective or non-conforming processing, shall be governed by HTG's Claims Procedure for Processing and Services, a copy of which is either furnished herewith or can be obtained upon request to HTG Headquarters, 34800 Lakeland Blvd. Eastlake OH 44095
15. **Complete Agreement** HTG's Quotation, Sales Order and Invoice (any or all as the case may be) constitute the entire and only agreement between the parties hereto and any negotiations, representations, affirmations of fact and courses of prior dealings, promises or conditions in connection therewith if not expressly incorporated herein shall not be binding upon HTG. No waiver, alteration or modification of any of the provisions hereof shall be binding unless in writing and signed by the president of HTG.
16. **Arbitration** Any dispute arising between the parties hereto shall be resolved by arbitration in Cleveland, Ohio, in accordance with the Rules of the American Arbitration Association, and the award of the arbitrator(s) shall be final and binding upon the parties. In the event the demand for arbitration is filed pursuant hereto, the parties shall have the same rights to discover under the Ohio Rules of Civil Procedure as if the dispute had been filed as an original action in an Ohio Court of original jurisdiction and shall be authorized to enforce said rights as if the entire dispute were pending before said Court.
17. **Non-Waiver** No waiver or failure to enforce compliance with the terms hereof by HTG shall constitute a waiver of HTG's rights to insist upon strict compliance with the terms of this order thereafter.
18. **Controlling Law** The invoice shall be deemed made in the State of Ohio. The Invoice and any dispute arising from the goods referenced herein shall be governed by the laws of the State of Ohio.
19. **Headings** The headings used in this Agreement are solely for the convenience of the parties and shall have no force or effect upon the interpretation of any provision hereof.