

# Metal Tech Controls Corp.'s Terms and Conditions of Sale

## Acceptance

Acceptance of orders by Metal Tech Controls Corporation (herein after referred to as MTCC), or affiliates whichever is appropriate is subject to credit approval and other terms that may be set by MTCC. The laws of the State of Florida shall govern approved transactions and parties agree to resolve all issues in the State of Florida. MTCC's terms and conditions shall prevail notwithstanding any variance with terms and conditions on any order submitted by purchaser. No other terms and conditions shall be binding upon MTCC, unless specifically agreed upon in writing by an authorized official of MTCC.

## Warranty and Warranty Restrictions

MTCC warrants its products to be free from defects of material and workmanship and will, without charge, replace or repair any equipment found defective upon inspection at its factory, provided the equipment has been returned, transportation prepaid, within one year from date of factory shipment.

THE FOREGOING WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESSED OR IMPLIED BY OPERATION OF LAW OR OTHERWISE INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. No representation or warranty, expressed or implied made by any sales representative, distributor, or other agent or representative of MTCC which is not specifically set forth herein, shall be binding upon MTCC. MTCC shall not be liable for any incidental or consequential damages, losses or expenses directly or indirectly arising from the sale, handling, improper application or use of the goods or from any other cause relating thereto and MTCC's liability hereunder, in any case, is expressly limited to the repair or replacement (at MTCC's option) of goods.

Warranty is specifically at the factory. Any on site service will be provided at the sole expense of the Purchaser at standard field service rates.

Properly rated electronic/electrical protection devices shall be installed by the end user in compliance with Underwriters Laboratories, Inc. and or applicable state or federal regulations to protect all associated equipment. MTCC shall not be liable for any damage due to improper engineering or installation by the purchaser or third parties. Proper installation, operation and maintenance of the product become the responsibility of the user upon receipt of the product.

Returns and allowances must be authorized by MTCC in advance. MTCC will assign a Returned Goods Authorization (RGA) number, which must appear on all related papers and the outside of the shipping carton. All returns are subject to the final review by MTCC. Returns are subject to restocking charges as determined by MTCC.

## Force Majeure Clause

Fulfillment of any order is contingent upon the availability of materials. MTCC shall not be liable for any delay in delivery or for non-delivery in whole or in part caused by the occurrence of any contingency beyond the control of either MTCC or suppliers to MTCC including, but not limited to war, sabotage, acts of civil disobedience, failure or delay in transportation, act of any government or agency or subdivision thereof, judicial action, labor dispute, fire, accident, explosion, epidemic, quarantine, restrictions, storm, flood, earthquake or acts of God, shortage of labor, fuel, raw material or machinery or technical failure where MTCC exercised ordinary care in the prevention thereof. If any contingency occurs, MTCC may allocate production and deliveries among MTCC's customers.

If MTCC, in its sole discretion, determines that MTCC's performance hereunder would result in a loss to MTCC on this sale, as computed under MTCC's normal accounting procedures, because of causes beyond MTCC's control, then MTCC may terminate this agreement in whole or in part without liability for any delay in the delivery of or failure to deliver the goods sold hereunder.

## Terms and Credits

Payment shall be made net 30 days after date of invoice, unless specifically agreed upon otherwise in writing by MTCC. All invoices paid after the date due may be assessed a late payment service charge of 18% per annum or the maximum allowed by applicable law, whichever is lower. Until invoice is paid in full purchaser hereby grants MTCC a security interest in product sold hereunder in accordance with the Uniform Commercial Code. Title of goods does not transfer to purchaser until invoices are paid in full.

If, in MTCC's judgment, the financial condition of the purchaser at the time merchandise is ready for shipment does not justify the terms specified, MTCC reserves the right to change these terms or to require full or partial payment in advance. MTCC may, at any time, suspend performance of any order or require payment in cash, security, or other adequate assurance satisfactory to MTCC when, in MTCC's opinion, the financial condition of buyer or other grounds for insecurity warrant such action. All sales are subject to the approval of MTCC's credit department.

## Prices

Prices are F.O.B. (EXW for foreign sales Punta Gorda, FL, USA unless noted otherwise) and are exclusive of all taxes. All orders accepted under any exception price agreement(s) must be dropped shipped directly to the end customer.

## Risk of Loss

Delivery shall occur and risk of loss shall pass to the buyer upon delivery of the material to the carrier at the point of shipment. Transportation shall be at buyer's sole risk and expense, and any claim for loss or damage in transit shall be against the carrier only.

## Delivery

The promised delivery date is the best estimate possible based upon current and anticipated manufacturing capabilities of when the product will be shipped. MTCC assumes no liability for loss, damage or consequential damages due to delays.

## General Provisions

Any cause of action arising from this agreement, or breach of it, must be commenced within one year after the cause of action occurs. MTCC has the right to correct any stenographical or clerical errors in any of the writings issued by it. These terms and conditions of sale constitute a complete and exclusive statement of the terms and conditions of the sale of the goods by MTCC to buyer. There are no other promises, conditions, understandings, representations or warranties. This agreement may be modified only in writing signed by a MTCC corporate officer. No waiver of any right will be effective against MTCC unless supported by consideration and expressly stated in the writing signed by MTCC. The failure of MTCC to enforce any right will not be construed as a waiver of MTCC's rights to performance in the future. Buyer may not assign any rights to, or delegate any performance owed under, the agreement without the written consent of MTCC, MTCC shall have the right to credit toward the payment of any moneys that may become due MTCC hereunder and any sums which may now or hereafter be owed to buyer by MTCC.