

TERMS OF SALE

1. **PAYMENT & CREDIT.** Payments for orders are due by the due date indicated in the invoice issued by Master-Halco, Inc. ("MH" or "Supplier"). Credit is granted at the sole discretion of MH, and may be withdrawn or re-evaluated from time to time by MH. Credit card transactions are not eligible for payment discounts. Unearned payment discounts will be charged back at the discretion of MH. A minimum order charge, freight charge and other handling or service charges may apply to transactions as itemized in the relevant invoice.
2. **EMAIL CONSENT.** If Customer wants to receive invoices, statements and notices ("Documents") by email, Customer agrees to provide Supplier with a valid email address and to keep MH informed of changes to its email address over time. Customer is solely responsible for keeping its email account secure and accessible only by authorized persons and assumes all risk of use of its email system. Customer agrees that MH's communications over email is provided "as is", and MH does not warrant that it will be uninterrupted, virus-free or error-free.
3. **SERVICE CHARGE & RETURNED CHECKS.** For checks returned due to insufficient funds, a \$30.00 charge (or the maximum charge permitted by law) will be assessed for each check returned. If a payment discount was applied to the transaction, this discount will be disallowed and charged back. All past due balances are subject to service charge of 1 1/2% per month (18% annual), or the maximum permitted by law, whichever is less. Should an action be brought to collect any balances past due or enforce any of the other provisions in these Terms of Sale ("Terms"), MH shall be entitled to recover its court costs and reasonable attorneys' fees from Customer.
4. **TAXES.** All local, state, and federal sales, use, excise or other taxes applicable to the materials sold to Customer shall be borne by Customer. To the extent that any additional applicable taxes, license fees, inspection fees, environmental fees or other charges are imposed by any governmental or regulatory authority or agency on any materials sold hereunder, or levied on the production, manufacture, transportation, sale, delivery or otherwise levied on materials sold or delivered, or other handling of materials sold under these Terms to Customer, Customer shall reimburse Supplier for such additional taxes, fees and charges. Failure of Supplier to add any such tax, fee or charge to the invoice for the product sale shall not relieve Customer from liability therefore and Customer pay such tax, fee or charge when invoiced by the Supplier, even if invoiced separately. In addition to the taxes, fee or charge, Customer shall reimburse Supplier for any interest and/or penalty assessed by any governmental or regulatory authority or agency when the penalty and/or interest is assessed as the result of false, incorrect or delinquent certification(s) made by Customer to Supplier.
5. **WARRANTY; DISCLAIMER; LIMITATION OF LIABILITIES.** MH's warranty by product line is available upon request or at MH's website (www.masterhalco.com). THERE ARE NO WARRANTIES OR CONDITIONS, INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, EXPRESS OR IMPLIED, BEYOND THE PROVISIONS OF SUPPLIER'S EXPRESS WRITTEN WARRANTY. REGARDLESS OF WHETHER A CLAIM IS MADE BASED ON BREACH OF CONTRACT, STRICT LIABILITY OR OTHERWISE, IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY DAMAGES WITH RESPECT TO, ARISING OUT OF, OR IN CONNECTION WITH, THE MATERIALS SOLD TO CUSTOMER IN EXCESS OF THE PRICE FOR SUCH MATERIALS AND IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR ECONOMIC LOSS, REPLACEMENT COSTS, HANDLING, INSTALLATION OR LABOR IN MAKING SUCH REPLACEMENT OR REPAIR, OR ANY OTHER SPECIAL OR INDIRECT LOSS, OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO EXPENSES INCURRED IN INSPECTION, RECEIPT, TRANSPORTATION, STORAGE, CARE OR CUSTODY OR EXPENSES INCURRED IN CONNECTION WITH EFFECTING COVER.
6. **RMA.** Prior authorization must be obtained from MH before return of materials sold hereunder. If return is permitted by MH, a 15% handling charge will be assessed on all materials sold hereunder and returned for Customer's convenience. Non-stock and special orders are not cancellable or returnable after the order has been placed.
7. **INSPECTION, CLAIMS AND DELIVERY INDEMNIFICATION.** Customer shall inspect all materials for shortage, damage, or non-conformity immediately upon receipt. All claims must be submitted by Customer to Supplier in writing within three (3) days of receipt of materials. Customer agrees that any person signing a delivery ticket or BOL on behalf of the Customer is, in fact, an employee or other agent so designated and authorized for that purpose by Customer. For materials sold to Customer on a delivered basis and where Customer requests delivery at a specified date, Supplier shall utilize reasonable efforts to accommodate Customer's request. However, Supplier generally utilizes third party carriers to deliver materials and there may be delays due to traffic congestion, weather and other causes beyond Supplier's control and therefore Supplier does not guarantee that deliveries will be made at specified times/dates and Supplier shall not be responsible for any claim by Customer on account of a late or delayed delivery of any materials. Customer must be available to receive the products on its scheduled delivery date and scheduled delivery location. Redelivery charges may apply if any shipment is unable to be delivered on the scheduled delivery date or original delivery location due to Customer's unavailability or other act or omission by Customer. Regardless of the mode of transport or delivery, risk of loss and title shall pass to Customer when materials leaves Supplier's warehouse. In cases where materials are transported by common carrier, claims for shortage or damaged materials must be made by Customer directly to the common carrier unless Customer can prove that materials were damaged or shorted prior to receipt by common carrier. Supplier is not responsible for any damages or liability in connection with the delivery or transport of the materials, whether or not caused by the common carrier, Customer or third party, and Customer shall indemnify, defend and hold Supplier harmless from any claims, damages, and losses arising from the delivery and/or transport of the materials. Any claims for liability related to the delivery of materials by common carrier should be directed towards the common carrier.
8. **QUOTATIONS.** Quotations are based on the Customer's written list of materials. Customer assumes all responsibility for the accuracy, acceptance, and compliance with any plans or specifications for all materials sold hereunder, and Supplier assumes no responsibility for same. Materials sold by Supplier are not sold to any standard specification or origin unless reference to such standard specification is written in Supplier's quotation. Valid quotations must be obtained in writing, and are subject to availability and change in price unless such written quotation states otherwise. Verbal quotations will not be honored.
9. **INSTALLATION, HANDLING AND USE INDEMNIFICATION.** Supplier is not responsible for the handling, use or installation of materials sold to Customer. Customer shall indemnify, defend and holds Supplier harmless from all claims, damages and losses (including attorneys' fees on a full indemnity basis) arising from or related to the handling, installation or use of materials sold to Customer.
10. **FORCE MAJEURE.** Supplier shall not be liable in damages or otherwise for any failure or delay in performance on any obligations hereunder, where such failure or delay is caused an event of force majeure, which is any event, occurrence or circumstance reasonably beyond Supplier's control, including without limitation, failure or delay caused by or resulting from acts of god, pandemic, strikes, labor disputes, fires, floods, wars, riots, destruction or unavailability of materials or components, delays of carriers or suppliers, embargoes, accidents and restrictions imposed by any governmental authority (including but not limited to allocations, priorities, requisitions, quotas and price controls).
11. **JURY WAIVER AND GOVERNING LAW.** These Terms shall be governed by and construed pursuant to the laws of the State of Texas without giving effect to any principles of conflict of laws. CUSTOMER AND SUPPLIER HEREBY KNOWINGLY AND INTENTIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THESE TERMS OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON BREACH OF CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY).
12. **VENUE** - All collections actions by Supplier against Customer or Customer's guarantor arising from Customer's failure to pay for materials and related charges ("Collections Actions") may be submitted to the State or Federal courts located in Dallas County, Texas. If the Collections Action is so submitted to such courts, Supplier and Customer waives any right it may have to assert the doctrine of forum non conveniens or to otherwise object to venue with regard to the Collections Actions so brought in such counties and Supplier and Customer agrees that the State and Federal courts located in such counties shall have in personam jurisdiction over each party for the purposes of litigating the Collections Actions.
13. **MISCELLANEOUS.** (a) Every purchase of materials, including all quotations, orders and invoices, shall be governed by and be deemed to include the provisions of these Terms. In the event of any inconsistency between these Terms and a quotation, order or invoice, these Terms shall prevail, unless otherwise agreed to by the parties in a written agreement executed by the Customer and an officer of MH. These Terms represent the entire agreement between the parties concerning the matters addressed in these Terms and all oral discussions/ representations/agreements and prior agreements are merged herein. Notwithstanding the foregoing, these Terms shall not serve to supersede, void or otherwise reduce any obligations of the Customer or Customer's guarantor under any written credit application, promissory note, guaranty, security agreement, or other written agreement duly executed. (b) The remedies reserved herein shall be cumulative and in addition to any other remedies provided in law or equity. (c) Customer may not assign its rights and obligations under these Terms except with the written consent of MH. (d) To be binding and effective, any waiver of any rights by MH must be in a writing executed by an officer of MH. No waiver of breach of any provision of these Terms shall constitute a waiver of any other breach. (e) If any provision of these Term is or becomes void or unenforceable by force or operation of law, the other provisions shall remain valid and enforceable and the unenforceable provision shall be modified to the minimum extent necessary to make such provision valid and enforceable, in keeping with the intent and spirit behind such provision. (f) These Terms may be modified by MH from time to time in the future. If the Terms are modified by MH, the modified Terms will be posted by MH on its website. To the extent that Customer places any orders after the effective date of the modified Terms, Customer shall be deemed to have accepted and agreed to be bound by the Terms as modified. It is hereby understood that these Terms may not be modified by any oral statement or representation by any MH staff. (g) MH's Terms prevails over all of Customer's terms and conditions of purchase regardless of whether or when Customer has submitted its purchase order or such terms. Fulfillment of Customer's order does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms. Sale of materials by MH to Customer is based only on these Terms and any proposal by Customer to add additional provisions is hereby rejected, unless modification of the Terms is agreed to in a written agreement signed by Customer and an officer of MH.