



## TERMS AND CONDITIONS OF SALE

All orders are accepted, and all sales are made in accordance with the following agreement.

**AGREEMENT:** This agreement contains the full and entire agreement between BoMetals Inc. and its customer. This agreement shall be effective for all orders placed with BoMetals. This agreement shall not be amended or altered in any manner unless such alteration or amendment is in writing and executed on behalf of BoMetals by one of its officers. This agreement shall be construed in accordance with the laws of the State of Georgia and shall be binding upon the heirs, personal representatives, successors, and assignees of the parties hereto. The venue for any litigation and/or arbitration shall be the State of Georgia.

**PRICING AND PRODUCT SELECTION:** This price list supersedes all previous price lists. ALL ORDERS ACCEPTED BY BOMETALS, INC. ARE SUBJECT TO RAW MATERIAL AVAILABILITY AND PRICES IN EFFECT AT THE TIME OF SHIPMENT. Freight prices quoted are an estimate only and subject to pricing in effect at the time of shipment. All orders are subject to approval of purchaser's credit and final acceptance by BoMetals, inc. BoMetals is happy to assist in your product selection. However, BoMetals disclaims any responsibility for the selection of a particular product or quantities. Product selection is the sole responsibility and decision of the buyer.

**TERMS OF PAYMENT:** All shipments unless otherwise stated on the invoice are made on NET 30 DAYS. BoMetals reserves the right to require payment in full before shipment, or in the case of products made to special order before manufacture thereof. Each shipment shall be deemed a separate and independent transaction and payment shall be made accordingly. PAST DUE ACCOUNTS ARE SUBJECT TO A 2% PER MONTH SERVICE CHARGE. All credits issued to the customer must be used within 120 days. In the case of default of any payment of purchase price when due, or upon breach of any other condition of the agreement, or if BoMetals shall deem the items to be in jeopardy, the full amount of the purchase price unpaid shall become due and payable at the election of BoMetals, and may at its option without notice or demand and without legal process, take possession of such items wherever they may be located, whereupon the rights of the customer in such items shall terminate absolutely, but customer shall not be released from the obligations until the full amount of the unpaid purchase price together with all other obligation under these terms have been paid in full. If it is necessary for BoMetals to file suit to enforce any provisions of this agreement, BoMetals shall be entitled to receive its cost of suit and attorney's fees from the customer.

**FREIGHT TERMS:** All prices are F.O.B. manufacturing facility or shipping point unless otherwise noted. Freight prices quoted are an estimate only and subject to pricing in effect at the time of shipment. Risk of loss passes on the purchaser upon delivery of product or to an agent of purchaser or common carrier.

**TAXES:** Any state, use or similar tax or charge made by Federal, State, or Municipal Authority, applicable to the sales or use of products shall be added to the price and shall be paid by the customer.

**RETURN POLICY:** BoMetals will not accept the return of merchandise without prior written authorization. All returns must be freight prepaid.

**ORDER CONFIRMATION:** Written confirmation of the order is always sent to the customer prior to shipment. Please review and notify BoMetals immediately if there is any discrepancy or question on quantity or pricing.

**FREIGHT CARRIERS:** Please specify preferred freight companies at the time of order placement for all shipments billed directly to the customer. Orders shipped and billed through BoMetals are at the discretion of BoMetals to optimize freight costs and shipping time. BoMetals cannot be responsible for freight rates, billing errors, or shipping schedules of any freight company.

**SHORTAGE AND DAMAGED GOODS:** Customer agrees to inspect the shipment against shipping documents upon receipt of the shipment at the destination. If shipments are received in a damaged condition or short in number of packages, the customer must have the carrier note this fact on the delivery receipt or paid freight bill. All claims for loss or damage in transit with the carrier are the responsibility of the customer. Shortages or errors in billing must be reported to BoMetals customer service in writing within five (5) days of receipt to secure adjustment.

**PROPER USE:** Customer agrees not to subject the items to abuse or misuse and to comply with and conform to all laws, ordinances, rules and regulations relating to the possession, safe and proper use of the items, and to save BoMetals harmless against actual or asserted violations thereof. Customer agrees to pay promptly when due all taxes and other public charges against or upon the purchase, possession, use of the items covered by this agreement.

**INSTALLATION:** Any installation drawings furnished by BoMetals to the customer are provided as a service to the customer to conceptually illustrate the assembly and installation of products. Such drawings are not intended to be fully directive nor cover engineering details on equipment, products or materials not furnished by BoMetals or their interconnection. Inasmuch as BoMetals does not control jobsite assembly, installation procedures, grade or quality of materials or equipment supplied by others. It is the responsibility of the customer to integrate drawings into composite drawings suitably complete for construction purposes with safe practices and overall project objectives.

**WARRANTY** – BoMetals warrants, for 12 months from the date of manufacture or for the duration of the published product shelf life, whichever is less, that at the time of shipment by BoMetals, the product is free of manufacturing defects and conforms to BoMetals' published specifications in force on the date of acceptance by BoMetals of the order. BoMetals shall only be liable under this warranty if the material

has been applied, used, and stored in accordance with BoMetals' instructions in the technical data sheet. The purchaser must examine the product when received and promptly notify BoMetals in writing of any non-conformity before the product is used, or no later than 30 days after such non-conformity is first discovered. If BoMetals, in its sole discretion, determines that the product breached the above warranty, it will, in its sole discretion, replace the non-conforming product, refund the purchase price or issue a credit in the amount of the purchase price. This is the sole and exclusive remedy for breach of this warranty. The sales information on the BoMetals website and received by the customer during the sales process does not supersede this warranty and the specifications of the product in force on the date of sale. THE FOREGOING WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES OTHERWISE ARISING BY OPERATION OF LAW, COURSE OF DEALING, CUSTOM, TRADE OR OTHERWISE.

**LIMITATION OF LIABILITY** - BoMetals shall not be liable in contract or in tort (including, without limitation, negligence, strict liability or otherwise) for loss of sales, revenues or profits; cost of capital or funds; business interruption or cost of downtime, loss of use, damage to or loss of use of other property (real or personal); failure to realize expected savings; frustration of economic or business expectations; claims by third parties (other than for bodily injury), or economic losses of any kind; or for any special, incidental, indirect, consequential, punitive or exemplary damages arising in any way out of the performance of, or failure to perform, this Agreement, even if BoMetals could foresee or has been advised of the possibility of such damages. The Parties expressly agree that these limitations on damages are allocations of risk constituting, in part, the consideration for this agreement, and also that such limitations shall survive the determination of any court of competent jurisdiction that any remedy provided in these terms or available at law fails of its essential purpose. BoMetals assumes no liability for charges resulting from non-compliance with 'Made in America' requirements if Buyer does not notify BoMetals in writing at the time the order is placed. Buyer will be responsible for all charges up to and including restocking fees, the full cost of replacement products and any and all damages incurred due to the failure to communicate the proper Made in America requirements to BoMetals in advance of shipment.

**REMEDY** - All claims must be made within twelve (12) months from the date of delivery to the original user. Upon satisfactory proof of claim by Purchaser, BoMetals will, within a reasonable time, make the necessary repairs or replacements, or where foregoing are deemed by BoMetals to be commercially impractical, refund the purchase price upon return of the products. Repair or replacement provided under this remedy will be supplied by BoMetals free of charge, F.O.B. shipping point, freight prepaid and allowed at the lowest available commercial rate. Except for the following, BoMetals will not pay any incidental or consequential costs involved in repair or replacement such as field labor and equipment costs. Replacement or returns for credit will not be allowed unless authorized by BoMetals in writing.

**COMPLETE AGREEMENT** - The complete agreement between BoMetals and Purchaser is contained herein and no additional or different term or condition stated by Purchaser will be binding unless agreed to by BoMetals in writing. The failure of BoMetals to insist upon strict performance of any terms or conditions stated herein will not be considered a continuing waiver of any such term or condition or any of its rights, nor will it imply a course of performance between the parties.