



NAPCO, a Westlake company  
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#### **TERMS AND CONDITIONS: SPECIALTY PRODUCTS**

These general terms and conditions apply to the sale of related products of the company to the original buyer ("Buyer"). The term "Company" refers to North American Specialty Products, LLC with offices at 2801 Post Oak Blvd., Houston, Texas 77056. IN NO EVENT SHALL SELLER OR BUYER BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR SPECIAL DAMAGES. This transaction shall be governed by the laws of the state of Texas. Any and all disputes arising out of or relating to this agreement are subject to the exclusive jurisdiction of the state or federal courts located in Harris County, Texas.

**Standard Product Warranty:** North American Specialty Products, LLC only warrants to replace, without charge, those of its pipe and fitting products proven to have manufacturing defects within 6 months of the date of delivery thereof; provided, however, that North American Specialty Products, LLC has first been given an opportunity to inspect the product alleged to be defective in order to determine if it meets North American Specialty Products, LLC's specifications and if the handling, installation, and operating conditions have been satisfactory and in accordance with acceptable practices. Products sold by North American Specialty Products, LLC which are manufactured by others are warranted only to the extent and limits of the warranty of the manufacturer. Owing to the widely varying conditions under which North American Specialty Products, LLC's products are installed and used, North American Specialty Products, LLC cannot be and is not bound, and no person is authorized to bind North American Specialty Products, LLC, by any further warranty whatsoever.

**Nonstandard Product Warranty:** North American Specialty Products, LLC only warrants to replace, without charge, those nonstandard pipe products proven to have manufacturing defects with respect to dimensional requirements within 6 months of the date of delivery thereof; provided, however, that North American Specialty Products, LLC has first been given an opportunity to inspect the product alleged to be dimensionally defective in order to determine if it meets North American Specialty Products, LLC's dimensional specifications. Products sold by North American Specialty Products, LLC which are manufactured by others are warranted only to the extent and limits of the warranty of the manufacturer. Owing to the widely varying conditions under which North American Specialty Products, LLC's products are installed and used, North American Specialty Products, LLC cannot be and is not bound, and no person is authorized to bind North American Specialty Products, LLC, by any further warranty whatsoever.

**Solvent Weld Pipe Disclaimer for Both Standard and Nonstandard Products:** Because North American Specialty Products, LLC cannot be assured that solvent weld pipe will be installed by persons fully acquainted with the proper assembly and installation techniques involved and the limitations upon such techniques caused by variations in installation conditions, North American Specialty Products, LLC DOES NOT WARRANT AND WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY EXPENSES, DAMAGES, OR LOSSES WHATSOEVER CONNECTED WITH OR ARISING FROM OR CAUSED BY THE FAILURE OF ANY SOLVENT WELD JOINT OR BY DEFECTIVE SOLVENT USED IN MAKING SUCH JOINT. This disclaimer does not apply to factory-made solvent welds.

**Threaded Pipe Disclaimer:** Claims sent to North American Specialty Products, LLC for pipe which fails to thread properly into a purchased coupling supplied by a manufacturer other than North American Specialty Products, LLC, or which leaks upon threading into said coupling, must be accompanied by the coupling in question in order for North American Specialty Products, LLC to properly evaluate the claim. NORTH AMERICAN SPECIALTY PRODUCTS, LLC WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY EXPENSES, DAMAGES, OR LOSSES WHATSOEVER CONNECTED WITH OR ARISING FROM OR CAUSED BY AN OUT-OF-SPECIFICATION COUPLING.

**Disclaimer/Limitation of Liability:** THE FOREGOING WARRANTIES ARE IN LIEU OF OTHER WARRANTIES, EXPRESSED OR IMPLIED, ORAL OR WRITTEN, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL COMPANY BE RESPONSIBLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY EXPENSE



OR REMOVAL OR REINSTALLATION RESULTING FROM ANY DEFECT, INCLUDING ANY DIMENSIONAL DEFECT INVOLVING NONSTANDARD PRODUCTS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR OF ANY EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO CUSTOMER. THE WARRANTY PROVIDED BY COMPANY GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. NO FIELD REPRESENTATIVE, DISTRIBUTOR OR DEALER OF COMPANY IS AUTHORIZED TO MAKE ANY CHANGE OR MODIFICATION TO THESE WARRANTIES.

### **PRICING**

**Stock Orders:** Stock pricing is available for stock orders shipped to distributor's yard only. Stock orders must be in full units, with a minimum quantity of one truckload. Stock orders will be shipped at prices in effect at time of shipment unless otherwise agreed. Premiums may be added for less than truckload (LTL) quantities or special packaging and handling.

**Pipe Contractor Jobs:** Quotations by North American Specialty Products, LLC are to be interpreted as solicitations for a bid. North American Specialty Products, LLC reserves the right to cancel or to revise the quotation at any time prior to the acceptance of orders. A firm order, accompanied by a firm shipping schedule, must be placed with North American Specialty Products, LLC before the expiration date. Prices stated on North American Specialty Products, LLC's order acknowledgment document are firm for delivery within thirty (30) days of the date of receipt of an order, unless otherwise stated on North American Specialty Products, LLC's order acceptance document. In the event that the project is delayed by the Buyer or any other third party, North American Specialty Products, LLC reserves the right to adjust the price for any products not yet delivered. If, however, the delay is caused by North American Specialty Products, LLC's inability to make the delivery as agreed, the acknowledged price will be honored. Shipments made before the ship complete date will be at prices in the acknowledgment unless otherwise agreed upon by North American Specialty Products, LLC in writing. Shipments are subject to availability of inventory for shipment in full truckload quantity, North American Specialty Products, LLC will do its best to provide the combined shipping with other orders. It is the Buyer's responsibility to fill out the truckload and expedite the shipment. Notwithstanding anything contained elsewhere on this contract, in the event North American Specialty Products, LLC is unable to obtain from its normal sources on terms it deems reasonable, any material, feedstock or other items for manufacturing or delivering product, North American Specialty Products, LLC may, upon notice to Buyer, increase product price, including adding surcharges, and/or suspending its performance hereunder.

### **FORCE MAJEURE**

North American Specialty Products, LLC shall not be liable for damage resulting from delay in performance or for non-performance, directly or indirectly caused by circumstances beyond the reasonable control of the party affected, including, but not limited to, acts of God; fires; explosions; floods; war; acts of or authorized by any government commission, agency or jurisdiction; accident; labor or storage trouble; or inability to obtain material, equipment or transportation. Quantities so affected may be eliminated from the agreement without liability, but the agreement shall remain otherwise unaffected. North American Specialty Products, LLC shall have no obligation to purchase supplies of the products specified herein to enable it to perform this agreement.

### **TERMS OF PAYMENT**

Terms are Net 30 days unless otherwise stated on the face of this document. Any cash discounts allowed shall apply to net material value after deducting transportation, but before additions or deductions for taxes, special packaging, or other charges. North American Specialty Products, LLC reserves the right to change these terms at any time. Any payment received by North American Specialty Products, LLC after due date shall be subject to a late payment charge not to exceed 1.5 % per month (18% per year) or less, if required by applicable law, until outstanding balance, including accrued late payment charge, is paid in full. The cash discount will be given only if payment to North American Specialty Products, LLC is U. S. postmarked on or before the cash discount date shown on the invoice.



## **CREDIT**

All orders and shipments are subject to approval by North American Specialty Products, LLC's credit Department. Buyer unconditionally assigns to North American Specialty Products, LLC all lien rights that it may have, whether as a vendor or otherwise, to secure payment of moneys owed to Buyer by reason of Buyer's sale of the products to a third party. Such assignment shall be limited in amount of the unpaid balance(s) owed by Buyer to North American Specialty Products, LLC for such products and shall remain in effect only for so long as such balance(s) shall remain unpaid. Buyer hereby appoints North American Specialty Products, LLC as its attorney-in-fact to execute and record such documents as are necessary to effect said assignment and/or to enforce said lien right.

Buyer agrees to pay all reasonable attorneys' fees and all expenses associates with the collection of moneys Buyer owes North American Specialty Products, LLC.

Buyer represents that it is not insolvent as that term is defined in the Uniform Commercial Code. In the event Buyer becomes insolvent before delivery of the products, it will so notify North American Specialty Products, LLC in writing. Buyer's failure to so notify North American Specialty Products, LLC shall be construed as a reaffirmation of Buyer's solvency at the time of delivery.

Buyer hereby grants North American Specialty Products, LLC a security interest in the product sold to Buyer by North American Specialty Products, LLC and all proceeds thereof which will be deemed collateral for Buyer's debt to North American Specialty Products, LLC until Buyer has paid North American Specialty Products, LLC for such product in full. In addition, Buyer authorizes North American Specialty Products, LLC to sign on behalf of Buyer UCC-1 Financing Statements perfecting North American Specialty Products, LLC's security interest in the above collateral.

## **NON-WARRANTY CLAIMS**

North American Specialty Products, LLC shall be responsible for settlement of non-warranty claims only if such claims have been submitted in writing to North American Specialty Products, LLC for prior investigation and determination of settlement within ninety (90) days from invoice date, or within thirty (30) days of the date of the circumstances giving rise to the claim, whichever is later. North American Specialty Products, LLC shall have no obligation to honor any settlement made by any distributor or other third party without prior written consent of North American Specialty Products, LLC. North American Specialty Products, LLC will not honor any claims that are the result of improper installation.

## **FAIR LABOR STANDARDS**

Goods covered by this document were produced in accordance with applicable provisions of the Fair Labors Standards Act of 1938, as amended.

## **CANCELLATION**

Buyer may cancel orders prior to shipment. In the event of Buyer cancellation, orders may be subject to liquidated damages in the amount of the cost of labor storage, overhead and material used, plus ten percent (10%) of sales price. Nonstandard or custom-produced products are not subject to Buyer's cancellation once production has begun.

## **ORDER AND SHIPPING CONFIRMATION**

Upon receipt of order acknowledgment from North American Specialty Products, LLC, Buyer must verify pricing, quantity, products, shipping instructions and shipping schedule on the order set. Should any changes become necessary, Buyer must inform North American Specialty Products, LLC's Customer Service Representative in writing immediately. If Buyer fails to timely notify North American Specialty Products, LLC and North American Specialty Products, LLC must restock products, there will be a restocking charge of twenty-five (25%) percent.



Orders requiring affidavits or certificates of compliance must so state when orders are placed with North American Specialty Products, LLC.

#### **NO ASSIGNMENTS**

This agreement is not assignable or transferable by either party, in whole or in part, except with the written consent of the other party, which shall not be unreasonably withheld.

#### **SHIPPING AND DELIVERY**

North American Specialty Products, LLC will use reasonable efforts to meeting the requested shipment schedule, but not guarantee a delivery time, and assumes no liability for additional costs or damages resulting from late deliveries. Risk of loss or damage shall rest on Buyer after products are loaded on to the truck or railcar at North American Specialty Products, LLC's facility. Upon receipt of order, Buyer must inspect the condition and quality of goods received. Any damage, loss, shortage, or misidentification should be reported to the driver and noted on the Bill of Lading. North American Specialty Products, LLC reserves the right to ship orders at the most economical rate. Should the Buyer request special packaging or handling, the additional cost will be billed to the Buyer.

#### **RETURNED MATERIALS**

Buyer must obtain written approval from North American Specialty Products, LLC Customer Service before returning any products to North American Specialty Products, LLC. Unauthorized returns may be scrapped at Buyer's expense. Ownership of authorized returns will pass to North American Specialty Products, LLC upon receipt at North American Specialty Products, LLC's factory. North American Specialty Products, LLC will determine acceptability of return materials for restocking and resalability. Credit will be issued on resalable materials only. A restocking charge of up to twenty-five (25 %) percent and freight cost both ways for the returned materials may be charged to the account of the customer.

#### **FREIGHT**

Unless otherwise stated on the face of this document, truckload shipments are F.O.B. shipping point with transportation prepaid by North American Specialty Products, LLC to job site or Buyer's stocking location, whichever applies, provided transportation prepaid by North American Specialty Products, LLC to job site or Buyer's stocking location, whichever applies, provided such job site is legally and physically accessible to interstate freight carriers operating under D.O.T. regulations. The Buyer may elect to ship a lesser quantity than a full truckload via common or contracted carrier from shipping location if Buyers pays any applicable freight penalty. All additional freight charges for Stopover/Drop Shipments/Demurrage allowed by D.O.T. regulations shall be charged to the Buyer's account.

#### **ORDER ACCEPTANCE OR REJECTION**

No order placed with North American Specialty Products, LLC shall be considered accepted until acknowledged in writing by North American Specialty Products, LLC. North American Specialty Products, LLC reserves the right to accept or reject any order. Possession of a price list does not constitute an offer to sell. The terms and conditions stated herein constitute the entire terms and conditions of sale between to sell. The terms and conditions stated herein constitute the entire terms and conditions of sale between the parties. Any contrary or additional terms or conditions shall be void and have no force or effect unless specifically approved in writing by an authorized officer or general manager of North American Specialty Products, LLC.

#### **TAXES**

Any taxes or other governmental charge upon production, sales, transportation, storage, or shipment of Product imposed by federal, state, municipal or other authorities shall be added to the price and must be paid by Buyer, regardless of whether said tax or charge is included on the initial invoice to Buyer. Tax Exemption Certificates for states into which Product is being shipped must be on file with North American Specialty Products, LLC. Otherwise, all applicable state and local taxes will be charged. These taxes will be shown on the invoice.