



NAPCO, a Westlake company
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TERMS AND CONDITIONS: STANDARD* PRODUCTS

These general items and conditions of sale apply to the sale by the Company of pipe and related products to the original buyer ("Buyer"). The term "Company" refers to the North American Pipe Corporation 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

LIMITED WARRANTY

This warranty only extends to the original Buyer of the products for a period of twelve (12) months from the original invoice date. Any claims must be submitted in writing within thirty (30) days of the date of the circumstances giving rise to the claim.

Warranty Coverage - These Company products are warranted against defective materials or workmanship under normal use and service. This warranty is void if: (1) the product has been damaged by accident or unreasonable use, neglect, alteration, faulty or negligent installation, abuse, misuse or other causes not arising out of defects in material workmanship; (2) Damage or defects due to handling by carrier or Buyer or incurred during shipment; or (3) the product labeling or Company's name has been altered or defaced.

Buyer's Sole Remedy – At the sole option of the Company, the exclusive remedy of Buyer shall be the replacement of the defective product and return by Buyer of defective product, the return of defective product and repayment of the purchase price, or the return by Buyer of the defective product and the issuance of a credit which can be applied towards the purchase of additional Company products.

WARRANTY DISCLAIMERS - THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ON THE PART OF COMPANY INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR USE, AND COMPANY NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON, FIRM OR CORPORATION TO ASSUME ANY LIABILITY OR OBLIGATION IN CONNECTION WITH THIS SALE ON ITS BEHALF AND PURCHASER ACKNOWLEDGES THAT NO REPRESENTATIONS EXCEPT THOSE MADE HEREIN HAVE BEEN MADE TO BUYER. COMPANY FURTHER DISCLAIMS ANY WARRANTIES, EXPRESS OR IMPLIED OTHER THAN AS EXPRESSLY SET FORTH HEREIN.

Except in the case of Company's sole negligence or willful misconduct, Buyer agrees to indemnify, defend and hold harmless the Company, its affiliates, agents, employees and representatives from and against any liability, claim, demand, loss, damage, cost, expense, including attorney's fee's and litigation costs, arising out of or in connection with the presence of Buyer's employees or agents on Company's premises or Company's employees or agents on Buyer's premises, the use of Company's services, or the purchase, use or resale of products supplied by Company.

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 Company are to be interpreted as solicitations for a bid. Company 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 Company before the expiration date. Prices stated on Company's order acknowledgment document are firm for delivery within thirty (30) days of the date of receipt of an order, unless otherwise stated on Company's order acceptance document. In the event that the project is delayed by the Buyer or any other third party, Company reserves the right to adjust the price for any products not yet delivered. If, however, the delay is caused by Company'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 Company in writing. Shipments are subject to availability of inventory for shipment in full truckload quantity, Company 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 Company is unable to obtain from its normal sources on terms it deems reasonable, any material, feedstock or other items for manufacturing or delivering product, Company may, upon notice to Buyer, increase product price, including adding surcharges, and/or suspending its performance hereunder.

FORCE MAJEURE

Company 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. Company 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.

Company reserves the right to change these terms at any time. Any payment received by Company 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 Company 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 Company's credit Department. Buyer unconditionally assigns to Company 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 Company for such products and shall remain in effect only for so long as such balance(s) shall remain unpaid. Buyer hereby appoints Company 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 Company.

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 Company in writing. Buyer's failure to so notify Company shall be construed as a reaffirmation of Buyer's solvency at the time of delivery.

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



NON-WARRANTY CLAIMS

Company shall be responsible for settlement of non-warranty claims only if such claims have been submitted in writing to Company 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. Company shall have no obligation to honor any settlement made by any distributor or other third party without prior written consent of Company. Company 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 Labor 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 Company, Buyer must verify pricing, quantity, products, terms, shipping instructions and shipping schedule on the order set. Should any changes become necessary, Buyer must inform Company's Customer Service Representative in writing immediately. If Buyer fails to timely notify Company and Company 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 Company.

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

Company 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 Company'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. Company 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 Company Customer Service before returning any products to Company. Unauthorized returns may be scrapped at Buyer's expense. Ownership of authorized returns will pass to Company upon receipt at Company's factory. Company 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 Company 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 Company shall be considered accepted until acknowledged in writing by Company. Company 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 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 Company.

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 Company. Otherwise, all applicable state and local taxes will be charged. These taxes will be shown on the invoice.

* Standard Products excludes products utilizing the Certa-Lok® restrained joint system, as well as all products within North American Pipe's Agricultural Irrigation, Water Well, Mining, and Foundations Building Products market segment portfolios.