

STANDARD TERMS AND CONDITIONS OF SALE

PLEASE READ THIS DOCUMENT CAREFULLY. IT CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, INCLUDING LIMITATIONS AND EXCLUSIONS THAT MIGHT APPLY TO YOU.

These terms and conditions apply to the purchase and sale of products through www.northwestpipe.com (referred to as the "site"), which may also be accessed through a link at www.northwestpipe.com, the general website of **Northwest Pipe Fittings, Inc.**, a **South Dakota** corporation (referred to as the "Supplier"). By placing an order for such products through this site (the "Order"), Buyer agrees to be bound by and accepts these terms and conditions. If Buyer does not agree to these terms and conditions, Buyer should not obtain products from this site. These terms and conditions are subject to change by the Supplier without prior written notice at any time, in Supplier's sole discretion. The latest version of the terms and conditions will be posted on this site, and Buyer should review these terms and conditions prior to purchasing any product that is available through this site. These terms and conditions are an integral part of the Terms of Use that apply generally to the use of this site.

These terms and conditions of sale ("Agreement") are applicable to any order placed with and accepted by Supplier.

1. **SCOPE OF AGREEMENT.** Supplier, upon acceptance of an Order placed by Buyer, will supply the products specified in the Order (the "Merchandise") to Buyer, pursuant to the terms and conditions of this Agreement and its exhibits, and Supplier's acceptance of such order submitted by Buyer is expressly limited to the terms and conditions of this Agreement notwithstanding any contrary provision contained in Buyer's purchase orders, invoices, acknowledgements or other documents. The details of the Merchandise (e.g., quantity, price, and product specifications) shall be set forth in the relevant Order.

2. **ORDER ACCEPTANCE AND CANCELLATION.** Buyer's receipt of an electronic or other form of order confirmation does not signify Supplier's acceptance of Buyer's Order, nor does it constitute confirmation of Supplier's offer to sell. Supplier reserves the right at any time after receipt of Buyer's Order to accept, decline, or limit Buyer's Order for any reason, whether or not Buyer's credit card has been charged. If Buyer's credit card has been charged and the Merchandise is canceled, Buyer will receive a prompt refund credit to Buyer's account. Supplier reserves the right at any time after receipt of Buyer's order, without prior notice to Buyer, to supply less than the quantity Buyer ordered of any item. Once the Order has been placed, it cannot be canceled unless the shipment is unavoidably delayed. In this case, Supplier will do its best to cancel the Order if requested. Supplier is a reseller to end user customers and does not accept Orders from dealers, exporters, wholesalers, or other customers who intend to resell the products which are offered on the site. Supplier will make every reasonable effort to maintain the availability of the site. However, should Supplier experience technical difficulties, Supplier is not responsible for orders that are not processed or accepted.

3. **PRICE AND TERMS.** Terms of payment are within Supplier's sole discretion and, unless otherwise agreed by Supplier in writing, payment must be received prior to Supplier's acceptance of an Order. (a)

The prices payable by Buyer for Merchandise to be supplied by Supplier under this Agreement will be specified in the applicable Order. Unless otherwise expressly stated in an Order, all prices exclude shipping and taxes. (b) Unless Buyer is subject to the Terms of the Credit Application (the "Credit Agreement") payment terms are Payment in advance made by cash, check, ACH, or credit card. (c) If Buyer is currently subject to the terms of the Credit Agreement, the terms of the Credit Agreement control any purchase made by Buyer on credit. Supplier shall retain a security interest in the Merchandise and all proceeds thereof until the full purchase price therefore (including taxes and additional charges) has been paid. (d) Supplier reserves the right to (1) withhold shipment of the Merchandise until full payment is made: and/or (2) revoke any credit extended to Buyer. In the event that Buyer's account is more than thirty (30) days in arrears, Buyer shall reimburse Supplier for the reasonable costs, including attorney's fees, of collecting such amounts from Buyer. In the event of any dispute regarding an invoice, no finance charges will apply in the event that Buyer provides written notice of the dispute prior to the due date for such payment. (e) Buyer shall provide notice within five (5) business days of the occurrence of any event which materially affects Buyer's ability to perform its obligations under this Agreement including but not limited to: (i) the material default of any supplier or sub-contractor; (ii) labor strike or dispute; or (iii) material uncured default with respect to any debt obligations of Buyer. (f) Pricing schedules (whether attached to this Agreement or an Order) are subject to change upon a change in the price of applicable raw materials (as reflected on a recognized trade or commodity pricing tracker) in excess of five percent (5%) from the date of such schedule. (g) Buyer shall be responsible for all applicable sales taxes imposed on the Merchandise. Supplier shall collect from Buyer applicable **South Dakota** sales taxes. Buyer shall be responsible for any and all sales and/or use taxes applicable for sales occurring in states other than **South Dakota**. (h) All payments must be in United States dollars. Buyer's current billing address, phone information, and e-mail address must be included with every order. (i) Unless otherwise specified in the Order, the Merchandise will be delivered FOB Supplier's address and will be shipped to Buyer via carriers selected by Supplier. Additional shipping and handling charges may apply.

4. **CHANGES IN PRODUCTS AND PRICING**. Supplier constantly updates and revises its offerings of products, and Supplier may discontinue products at any time without notice. To the extent that Supplier provides information on availability of products, Buyer should not rely on such information, and Supplier will not be liable for any lack of availability of products that Buyer may order through the site. All pricing for the products available on the site is subject to change. For all prices and products, Supplier reserves the right to make adjustments due to changing market conditions, product discontinuation, manufacturer price changes, errors in advertisements and other extenuating circumstances.

5. **INTELLECTUAL PROPERTY**. Any and all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names, commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Buyer as of the date of the Order or made or conceived by employees of Buyer during the Term of the Order shall be and remain the sole and exclusive property of Buyer provided that Buyer grants to Supplier a license to use, display and distribute (and to sub-license its affiliates and subcontractors to use, display and distribute) any intellectual property rights delivered to Supplier as reasonably necessary to perform any Order. Any and

all inventions, discoveries, patent applications, patents, copyrights, trademarks and trade names, commercial symbols, trade secrets, work product and information embodying proprietary data existing and owned by Supplier as of the date of the Order or made or conceived by employees, consultants, representatives or agents of Supplier during the term of this Agreement shall be and remain the sole and exclusive property of Supplier.

6. **ADVERTISING DISCLAIMER AND TRADEMARKS**. The descriptions of products that are posted on the site are the representations of Supplier's suppliers. Supplier is not responsible for the accuracy of such descriptions, nor is Supplier responsible for typographical, pricing, product information, advertising or shipping errors. In the event a product or service is listed at an incorrect price or with incorrect information due to typographical error or error in pricing or product information received from Supplier's suppliers, Supplier shall have the right to refuse or cancel any orders placed for products listed at the incorrect price. Supplier shall have the right to refuse or cancel any such orders whether or not the order has been confirmed and Buyer's credit card charged. If Buyer's credit card has already been charged for the purchase and the Order is canceled, Supplier will immediately issue a credit to Buyer's credit card account in the amount of the charge. All trademarks, registered trademarks, photographs, and images relating to products available through the site are the sole property of their respective owners. Photographs are courtesy of the respective manufacturers or the Supplier.

7. **INDEMNIFICATION**. Buyer, as Indemnitor, shall indemnify, defend, and hold Supplier, its officers, directors, employees, agents, subsidiaries and/or affiliates, as Indemnitee, harmless for any failure by Buyer to pay any applicable sales and/or use taxes imposed upon the sale of the Merchandise and for any claim for damages caused by the Buyer's misuse of the Merchandise. Buyer shall not be responsible for indemnifying Supplier where the basis of the indemnity claim arises out of Supplier's own negligence or willful misconduct. In order to avail itself of this indemnity provision, Indemnitee shall promptly provide notice to Indemnitor of any such claim, tender the defense of the claim to Indemnitor, and cooperate with Indemnitor in the defense of the claim. Indemnitor shall not be liable for any cost, expense, or compromise incurred or made by Indemnitee in any legal action without the Indemnitor's prior written consent.

8. **BREACH**. In addition to all other rights to which a party is entitled under this Agreement, if either party breaches any term of the Order or the Agreement, the non-breaching party shall have the right to: (a) terminate the Order immediately upon written notice to the other party; and (b) seek to obtain injunctive relief to prevent such breach or to otherwise enforce the terms of this Agreement. Failure to properly demand compliance or performance of any term of the Order or this Agreement shall not constitute a waiver of Supplier's rights hereunder and prior to any claim for damages being made for non-conformance or breach. Buyer shall provide Supplier with reasonable notice of any alleged deficiencies in the Merchandise or performance under the Order or this Agreement and Supplier shall have a reasonable opportunity to cure any such alleged non-conformance or breach.

9. **DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY. THIS SITE AND ALL INFORMATION, CONTENT, MATERIALS, AND PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE ARE PROVIDED BY SUPPLIER, OR ITS AFFILIATES ON AN "AS IS" AND "AS AVAILABLE"**

BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. SUPPLIER AND ITS AFFILIATES MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, AS TO THE OPERATION OF THIS SITE OR THE INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE, UNLESS OTHERWISE SPECIFIED IN WRITING. BUYER EXPRESSLY AGREES THAT BUYER'S USE OF THIS SITE IS AT BUYER'S SOLE RISK. TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, SUPPLIER AND ITS AFFILIATES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SUPPLIER AND ITS AFFILIATES DO NOT WARRANT THAT THIS SITE, INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE; THEIR SERVERS; OR EMAIL SENT FROM SUPPLIER ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. SUPPLIER AND ITS AFFILIATES WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS SITE OR FROM ANY INFORMATION, CONTENT, MATERIALS, OR PRODUCTS INCLUDED ON OR OTHERWISE MADE AVAILABLE TO BUYER THROUGH THIS SITE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING. IN NO EVENT SHALL EITHER PARTY BE LIABLE HEREUNDER FOR INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY FOR SUCH DAMAGES AND SUPPLIER'S TOTAL LIABILITY FOR DAMAGES UNDER THIS AGREEMENT AND THE ORDER SHALL BE LIMITED TO THE TOTAL FEES DUE HEREUNDER FOR THE INVOICE UPON WHICH A CLAIM IS BASED. SUPPLIER'S SOLE AND ENTIRE MAXIMUM LIABILITY (AND THE LIABILITY OF ANY OF THE PROVIDERS OF PRODUCTS AVAILABLE ON THE SITE), FOR ANY REASON, AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY BUYER FOR THE PRODUCTS BUYER HAS ORDERED THROUGH THIS SITE.

10. **Return Goods Policy.**

10.1.0 STOCK ITEMS

10.1.1 Stock items when returned within 30 days of the last purchase and in salable condition, will not be subject to a handling charge.

10.1.2 Stock items returned after 30 days from the original date of purchase with a copy of the sales receipt and in salable condition, will be subject to a 10% handling charge. Any returns not accompanied by a sales receipt will be subject to a 25% handling charge.

10.2.0 SPECIAL ORDER NON-STOCK ITEMS

(Special Order Non-Stock items are distinguished by an "NS" in the number - i.e.: 382NS12345)

10.2.1 Special Order Non-Stock items may not be returned to Northwest Pipe Fittings without prior authorization. Once authorization is received, the disposition of the material will be communicated to the customer by Northwest Pipe Fittings.

10.2.2 If material is to be returned to the factory or vendor, Northwest Pipe Fittings will return the material using the most economical method possible and in a timely manner.

10.2.3 When credit is received from the factory or vendor, Northwest Pipe Fittings will issue credit to the customer, less any charges incurred in the return of the material including any freight or handling charges.

10.3.0 DEFECTIVE ITEMS

10.3.1 Defective items may be returned without prior approval along with a copy of the sales receipt from the original purchase.

10.3.2 Northwest Pipe Fittings will bill the customer for the replacement item on the account that was billed for the original item. Payment will due according to terms of the account.

10.3.3 Determination of defective/non-defective status will be determined with the factory, vendor or their representative according to their policies and in a timely manner.

10.3.4 When and if Northwest Pipe Fittings receives credit for the defective item from the factory or vendor, credit for the replacement item will be issued to the customer's account that was billed.

If the factory denies credit, Northwest Pipe Fittings will contact the customer to arrange for disposition of the item and credit will not be issued.

11. **NOTICE**. Any notice sent pursuant to the Order or this Agreement shall be sent by certified mail, return receipt requested; or by overnight mail to the addresses on the Order or to such address as either party may in the future designate.

12. **ASSIGNMENT**. Except as otherwise provided, the Order and this Agreement shall be binding upon and inure to the benefit of the parties' successors and lawful assigns.

13. **STATUS**. Buyer and Supplier are separate entities. Nothing in the Order or this Agreement shall be construed as creating an employer-employee or joint venture relationship.

14. **COMPLIANCE WITH LAW**. Supplier shall comply with all state, federal and local laws and regulations applicable to its performance hereunder.

15. **GOVERNING LAW**. The Order and this Agreement shall be governed by the laws of the State of Nevada, without reference to conflicts of law principles. Any legal suit, action or proceeding arising out of or relating to the Order or this Agreement shall be commenced in a federal court in **South Dakota** or in state court in the County of Pennington, South Dakota, and the appellate courts thereof, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding. With respect to any litigation arising out of the Order or this Agreement, the parties expressly waive any right they may have to a jury trial and agree that any such litigation shall be tried by a judge without a jury and the prevailing party shall be entitled to recover its expenses, including reasonable attorney's fees, from the other party.

16. **FORCE MAJEURE**. Neither party shall be liable for any failure to perform or delay in performance of this Agreement to the extent that any such failure arises from acts of God, war, civil insurrection or disruption, riots, government act or regulation, strikes, lockouts, labor disruption, cyber or hostile network attacks, inability to obtain raw or finished materials, inability to secure transport, or any cause beyond such party's commercially reasonable control.

17. **SEVERABILITY**. In the event any provision of the Order or this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of the Order or this Agreement will remain in full force and effect. All sections herein relating to payment, Ownership, confidentiality, indemnification and duties of defense, representations and warranties, waiver, waiver of jury trial and provisions which by their terms extend beyond the Term shall survive the termination of the Order and this Agreement.

18. **ENTIRE AGREEMENT**. The Order, this Agreement and the operative provisions of any quotation issued by Supplier and any purchase order issued by Buyer, sets forth the entire agreement and understanding among the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of every and any nature among them. No proposal, purchase order, order confirmation, acceptance, or any other document provided by either Party to the other, nor any electronic click-wrap, terms of use or similar online consent or acceptance language accompanying or set forth as a prerequisite to any electronic interface or utility associated with any Merchandise, shall be deemed to amend the terms hereof and any such contradictory or additional terms shall be ineffective. No party shall be bound by any condition, definition, warranty, or representations, other than as expressly set forth or provided for in the Order or this Agreement, or as may be, on or subsequent to the date hereof set forth in writing and signed by the party to be bound thereby. In the event of any ambiguity or conflict between any of the terms and conditions contained in this Agreement and the terms and conditions contained in an Order, the terms and conditions of this Agreement shall control, unless the Parties have expressly provided in such Order that a specific provision in this Agreement is amended, in which case this Agreement shall be so amended, but only with respect to such Order. The Order or this Agreement may not be amended, supplemented, changed, or modified, except by agreement in writing signed by the parties to be bound thereby.