

## **NAMASCO CORPORATION SALES AGREEMENT**

The products and services ("Products") provided by Namasco Corporation, its affiliates and subsidiaries (hereinafter collectively referred to as "Namasco") to customer ("Customer") are expressly subject to the following terms and conditions (the "Terms and Conditions") sent to Customer and/or published on Namasco's website at [www.namasco.com](http://www.namasco.com), except to the extent otherwise stipulated by us to the contrary in writing. The Terms and Conditions contained herein shall apply to all quotes and purchase orders, bids, contracts and sales accepted or made by Namasco.

### **TERMS**

#### **PAYMENT**

Payment for all Products is to be remitted according to the payment terms stated on a bill of lading, invoice, or other sale document issued by Namasco to Customer (a "Namasco Sale Document"); provided that the payment terms herein shall be Namasco's standard payment terms and shall govern to the full extent payment terms not specified in a Namasco Sales Document. Payment shall be made in US Dollars. Where Customer has established credit, Namasco's standard terms of payment will be net thirty (30) days from invoice date. Namasco reserves the right at any time to change the amount of or withdraw any credit extended under any terms to Customer. If in Namasco's sole discretion, the financial condition of Customer at any time does not justify the terms of payment above, Namasco may require full or partial payment in advance of any shipment of Product. If Customer becomes delinquent in any payment to Namasco, Namasco has the right to suspend performance until such delinquency is corrected. The failure to pay on the net due date on each invoice shall deem the debt to be delinquent. Namasco reserves the right to charge interest on all balances which remain unpaid after the due date at the lesser of 1-1/2% per month (18% per annum) or the maximum allowed by law, whichever is less. Namasco retains a purchase money security interest in Products in the amount of the purchase price of such Products (including interest and all other fees) to secure Customer's obligations hereunder. Customer appoints Namasco as its attorney-in-fact to execute any financing statements under the Uniform Commercial Code on Customer's behalf which Namasco deems necessary to protect Namasco's interest in the Products.

Namasco may repossess any Products if not paid for in accordance with the terms and conditions contained herein. All payments on Customer's account may be applied against open charges or otherwise set-off against Customer in the discretion of Namasco.

In the event that Namasco retains the services of an attorney or collection agency to effect the collection of any monies owed, the Customer agrees to pay all costs incurred, including reasonable attorney's fees, whether suit is brought or not, including but not limited to the costs and attorney's fees associated with the preparation and recording of a claim of lien and/or surety bond claim, and/or any litigation, and/or the cost of appeal.

## **CONTROLLING LAW**

The laws of the State of Georgia shall be applicable to all disputes arising under this Sales Agreement and the Terms and Conditions herein. The Customer waives the right to trial by jury in any action arising from the vendor/vendee relationship between Namasco and Customer. In the event of litigation, Customer agrees and acknowledges that venue, at the sole election of Namasco, shall be either: Fulton County, Georgia or the county and state from which the Namasco Products were shipped.

## **ENTIRE AGREEMENT**

Except for Product quantity, requested delivery date and price (subject to the terms herein) as specified in (i) a purchase order or other procurement document issued by Customer and expressly accepted by Namasco (an "Order") or (ii) the terms and conditions set forth in the bill of lading, invoice, or other sale document(s) issued by Namasco (each of the foregoing, a "Namasco Sale Document"), the Terms and Conditions contained herein constitute the entire agreement of sale. The Terms and Conditions herein shall supersede any additional, different, or conflicting terms and conditions in any Order and shall prevail, and acceptance of Customer's Order is conditional upon Customer's acceptance of the Terms and Conditions contained herein irrespective of whether Customer accepts these Terms and Conditions by a written acknowledgement, by implication, or acceptance and payments for Products ordered or delivered hereunder. Customer represents, warrants and agrees that any employee or agent of Customer signing any delivery document provided by Namasco is and shall be deemed fully authorized on behalf of the Customer.

Prices are subject to change without notice, to conform to those in affect at the time of shipment. Prices quoted are for the specified quantities.

All quotations or draft Namasco Sale Documents provided by Namasco are provided for immediate acceptance and are subject to approval by Namasco's Quotation and/or Order department and Credit Department, and are also subject to prior sale, whether from inventory stock or otherwise. Any clerical errors which Namasco may make in such quotations and drafts are subject to correction.

## **SHIPMENT AND DELIVERY**

Namasco will use commercially reasonable efforts to ship Products to Customer's delivery address listed on an Order in accordance with the scheduled date specified by Namasco. Notwithstanding the foregoing, Customer acknowledges that delivery schedules are subject to change depending on the available capacity of Namasco and its suppliers and other circumstances beyond Namasco's reasonable control. Namasco will notify Customer of any anticipated delay of thirty (30) days or more in delivery of the Products hereunder. Namasco will have the right to make delivery in installments. Products are shipped free carrier or F.O.B. (as defined in U.C.C. Section 2-319) Namasco's shipping point, if delivery is in the United States and EXW (Ex Works)(as defined in Incoterms 2000) Namasco's shipping point, if delivery is international. Title to Products and risk of loss in the Products shall pass to Customer upon delivery to the carrier. Customer will pay all charges relating to shipment, including, without limitation, transportation charges and insurance premiums.

## **ACCEPTANCE**

Products delivered to Customer will be deemed finally inspected and irrevocably accepted by Customer upon delivery to the destination specified in the Customer's Order.

## **WEIGHT**

The weight indicated on any bill of lading or other document provided by Namasco is an approximate weight.

## **RETURN OF PRODUCTS AND CANCELLATION OF ORDERS**

No Products may be returned or credited nor may orders be cancelled or countermanded without Namasco's written consent. Sales of all special order Products are final. Namasco may authorize the return of stock Products in its sole discretion, subject to a restocking charge.

## **CLAIMS, DAMAGES, WARRANTIES AND GUARANTEES**

Namasco specifically disclaims and is not bound by any and all warranties, express, implied or statutory, of any kind whatsoever, and any and all such warranties, including warranties of merchantability and fitness for particular purpose are expressly excluded hereby. No person is authorized to make any warranty or representation on behalf of Namasco concerning the performance of the products.

Claims against Namasco of all kinds, including but not limited to those of defects, shortages and allowances, must be made promptly and in no event later than ten days from receipt of Product (including materials). Namasco shall not be responsible for errors in "taking off" lists of Product, or for any defects caused by misuse, abuse, improper installation or application, repair, alteration, accident negligence in use, storage, transportation or handling of a Product after risk of loss has passed to a Customer.

Namasco's liability for Product found to be defective is limited to such defects as develop or appear immediately upon delivery or installation in which event the Product must be returned to Namasco, or if Namasco so directs, to Namasco's vendor(s), and Namasco's liability shall be limited, at its option, to replacement of defective Product or otherwise giving credit for the amount of the purchase price.

## **LIMITATION OF LIABILITY**

Namasco will not be liable with respect to or arising out of any subject matter of these terms and conditions, any order, or any Namasco sale document or the Products under any contract, negligence, strict liability or other theory for (a) any amounts in excess of the purchase price of the Product paid by the customer on which the claim is based; (b) any incidental, indirect, special or consequential damages, including lost profits or (c) cost of procurement of substitute products. Namasco shall have no liability for any failure or delay due to matters beyond its reasonable control.

## **TAXES**

Prices charged by Namasco and set forth in any Namasco Sales Documents (including quotations) may not include taxes and Customer shall be responsible for and indemnify Namasco for any and taxes, duties and other charges (including all sales, use, excise or similar taxes) imposed based on the purchase or sale of the Products.

## **RELATIONSHIP OF PARTIES**

Customer's relationship to Namasco is that of an independent contractor, and neither party is an agent or partner of the other. Customer will not have, and will not represent to any third party that is has, any authority to act on behalf of Namasco.

## **GENERAL CONDITIONS**

No statements, representations or agreements of any kind are binding or chargeable to Namasco unless made in writing. It is understood that Namasco is not liable for any delays or damages due to governmental restrictions, rulings for priorities, or any other lawful restrictions now or hereafter imposed, or due to fires, strikes, lockouts, differences with workmen, accidents, war, delays or defaults by carriers, or due to any causes or contingencies beyond Namasco's control without any limitation whatsoever. All agreements and orders become effective when, and only when, accepted in writing by Namasco or by delivery of the particular Products ordered.

## **AMENDMENT AND WAIVER**

Any waivers or amendments to these Terms and Conditions shall be effective only if made in writing by non-pre-printed agreements clearly understood by both parties to be an amendment or waiver and signed by a representative of the respective parties, authorized to bind the parties.

## **SEVERABILITY**

In the event that any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal or unenforceable by a court or tribunal of competent jurisdiction, that provision shall, at the court or tribunal's option, be limited or eliminated to the minimum extent necessary such that these Terms and Conditions shall otherwise remain in full force and effect and enforceable.

## **RETAIN TITLE AGREEMENT**

It is a condition hereof that the title to the Products shall remain in Namasco until full purchase price has been paid.

## **HAZARDOUS WARNING LABEL**

Steel products under normal conditions do not pose a health problem. However, fumes or particles may be generated when welding, burning, grinding or similar operations are performed.

## **NO ASSIGNMENT**

These Terms and Conditions are not assignable to any third party without the prior written consent of Namasco. Any assignments in violation of the foregoing are null and void.

## **EXPORT LAWS**

Namasco's obligations are subject to the export administration and control laws and regulations of the U.S. Government. Customer shall comply fully with such laws and regulations in the export, resale or other disposition of the Products. By accepting this Sales Agreement, Customer confirms that it is not a resident or citizen of any country embargoed by the U.S. A list of embargoed countries is available at the official website of the US Bureau of Export Administration at <http://www.bxa.doc.gov>.