

TERMS AND CONDITIONS (“AGREEMENT”)

THE SALES OF PRODUCTS AND SERVICES (“PRODUCTS”) BY NAC ARE SUBJECT TO THESE TERMS AND CONDITIONS (“AGREEMENT”) REGARDLESS OF OTHER OR ADDITIONAL TERMS OR CONDITIONS THAT CONFLICT OR CONTRADICT THIS AGREEMENT IN ANY PURCHASE ORDER, DOCUMENT OR OTHER COMMUNICATION (“ORDER”), PREPENDED TERMS AND CONDITIONS ON ANY CUSTOMER DOCUMENT (FOR EXAMPLE: PURCHASE ORDERS OR CONFIRMATIONS.) AND/OR NAC’S FAILURE TO OBJECT TO CONFLICTING OR ADDITIONAL TERMS WILL NOT CHANGE OR ADD TO THE TERMS OF THIS AGREEMENT.

1. Except as otherwise set forth on the front of an NAC Invoice or acknowledgment, terms of payment are net 30 days from invoice date; prices are FOB NAC’s facility (as defined in the Uniform Commercial Code); and prices are conditional upon timely payment and any past due balance will accrue interest at the monthly rate of one and one-half percent. Freight Charges may be constructed on the basis of standard carrier tariffs and may not reflect actual transportation costs. NAC reserves the right to modify terms prior to shipment, require payment in advance, or delay or cancel any shipment or order by reason of customer’s creditworthiness or should customer fail to fulfill any obligation when due.
2. In the absence of prior agreement as to shipping, NAC may select a carrier. NAC’s responsibility for any loss or damage ends, and title passes, when products are delivered to the carrier, to customer, or to customer’s agent (including, without limitation, any test house or value-added service provider), whichever occurs first. Customer will pay for storage charges if NAC holds products at customer’s request pending instructions or reschedule delivery.
3. All products sold by NAC and the components and materials utilized in any assembled or customized products, are covered by, and subject to, the terms, conditions, and limitations of the manufacturer’s standard warranty, which warranty is expressly in lieu of any other warranty, express, or implied, or by NAC or the manufacturer. In a case where the manufacturer’s warranty does not exist or cannot be honored for the ordered item NAC offers a 30-day warranty with the following coverage: Customers’ exclusive remedy, if any, under these warranties is limited to NAC’s election, to any of (a) refund of customer’s purchase price (b) repair by NAC or the manufacturer of any products found to be defective; or (c) replacement of any such product. Customer acknowledges that except as specifically set forth or referenced in this paragraph. THERE ARE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, IN ADVERTISING MATERIALS, BROCHURES, OR OTHER DESCRIPTIVE LITERATURE) BY NAC OR ANY OTHER PERSON, EXPRESS OR IMPLIED, AS TO THE CONDITION OR PERFORMANCE OF ANY PRODUCTS, THEIR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. NAC ASSUMES NO RESPONSIBILITY OR LIABILITY WHATSOEVER FOR MANUFACTURER’S PRODUCT SPECIFICATIONS OR THE PERFORMANCE OR ADEQUACY OF ANY DESIGN OR SPECIFICATION PROVIDED TO NAC BY OR ON BEHALF OF THE CUSTOMER. Use of customer’s part number on any document or on any products is for convenience only and does not constitute any representation by NAC with respect to the performance, specifications, or fitness of any part for any purpose. The performance of any value-add service may void the manufacturer’s warranty and render products non-returnable. Any third party value-add service provider is deemed to be an agent of the customer.
4. Customer is responsible for all costs and expenses incurred by NAC in collecting any sums owed by customer (which may include, but are not limited to, collecting agency and reasonable attorneys’ fees). NAC shall have the right to offset any sum owed by NAC to customer against any sum owed by Customer to NAC. All transactions are governed by the laws of the State of Florida. The parties waive any right to trial by jury.
5. Products are deemed accepted by customer unless customer notifies NAC in writing within 5 days of delivery of product shortages, damage, or defect. No returns may be made for any reason without a Return Authorization Form issued by NAC. If customer refused to accept tender or delivery of any products or returns any products without authorization from NAC, such products will be held by NAC awaiting customer’s instructions for 20 days, after which NAC may deem the products abandoned and dispose of them as it sees fit, without crediting customer’s account. If the invoice(s) that are affected by the credit memo(s) are still open, the credit memo will be applied directly to the corresponding invoice. All credits must be used within 6 months of issuance.
6. NAC will not be liable for any failure or delay in its performance or in the delivery of shipments of, or for any damages suffered by customer by reason of such failure or delay is caused by, or arising in connection with, any fire, flood, accident, riot, earthquake, severe weather, war, governmental interference or embargo strike shortage of labor, fuel, owner, materials, or supplies, delay in delivery by NAC’s suppliers or any other cause or causes beyond NAC’s control. NAC reserves the right to cancel without liability any order, the shipment of which is or may be delayed for more than 30 days by reason of any such clause. NAC reserves the right to allocate in its sole discretion among customers or potential customers, or defer or delay the shipment of, any product which is in short supply.
7. This document, and not any purchase order or other customer document (which, if construed to be an offer is hereby rejected), will be deemed an offer or counteroffer and is a deduction of any other terms or conditions. Customer, by accepting any products making any payments or ordering any products having previously received these terms and conditions, will be deemed to have assented to these terms and conditions, notwithstanding any terms contained in any prior or later communication from customer and whether NAC will specifically or expressly object to any customer’s terms. NAC’s failure to object to any document, communication or act of customer will not be deemed a waiver of any of these terms and conditions. Any addition or change to these terms and conditions must be specifically agreed to in writing by a duly authorized officer of NAC before becoming binding on NAC.
8. Export Controlled Products purchased may be subject to export or resale restriction or regulation. NAC strives to maintain strict compliance with the Export Administration Regulations (“EAR”), International Traffic in Arms (“ITAR”), Foreign Trade Regulations (“FTR”), Office of Foreign Assets Control (“OFAC”) sanctions program, and all other applicable U.S. and international import and export laws and regulations.
Purchases by domestic customers: You purchase items from NAC for resale or end-use by you or your domestic and international customers. Accordingly, we ship these commodities only to you or your domestic (U.S.) affiliates, agents, or freight forwarders. From NAC’s perspective, these are purely domestic transactions. Therefore, should you export, or cause to export, items purchased from NAC, you are an exporter within the meaning of United States export regulations. Accordingly, we require that you comply with all U.S. export laws and regulations relating to the export of the products you have purchased or will purchase from us, including obtaining any required export authorizations or licenses and the submission of the Electronic Export Information (“EEI”) as required under the FTR. NAC shall not be listed as the “exporter” or U.S. Principal Party In Interest (“USPPI”) on any documentation relating to any export as NAC is not the exporter or USPPI. You are acting on your own behalf and not as NAC’s agent for export or other purposes.
Purchases by International customers: Any products purchased for export may require further documentation to be filed detailing the end customer and use of the product. Purchaser shall not directly, or indirectly, sell, export, reexport, transfer, divert, or otherwise dispose of any products purchased from NAC to Cuba, Iran, North Korea, Syria, Sudan, the Crimea Region of the Ukraine, or to any other country subject to U.S. Economic sanctions or trade embargoes unless authorized by the U.S. government. Purchaser shall not, directly or indirectly, use, sell, export, reexport, transfer, divert or otherwise dispose of any products any Export Control Classification Numbers supplied by NAC to any military end-user or for any military use in China, Russia, or Venezuela, without first having obtained authorization by the U.S. Government. Purchaser shall not, directly or indirectly, use, sell, export, reexport, transfer, or divert any commodities supplied by NAC for use in restricted activities or end-uses including the development, production, use of stockpiling of nuclear, chemical, or biological weapons; maritime nuclear propulsion activities; or rockets, missiles, or unmanned aerial vehicles unless authorized by the U.S. government.
Purchaser acknowledges that U.S. law prohibits the sale, transfer, export or reexport of commodities to individuals or companies listed in the U.S. Department of Commerce Denied Persons List, Entity List, or Unverified List; the U.S. Treasury Department’s List of Specially Designated Nationals and Blocked Persons (SDN List); and the State Department’s Debarred List or Nonproliferation Sanctions List. The PURCHASER further warrants and represents that it will screen end-users against these restricted party lists.
Any statement as to product country of origin, Export Control Classification Number, or compliance with applicable law (including, without limitation, that products are lead-free or RoHS compliance) is as provided to NAC by its supplier, and NAC does not warrant its accuracy and will not be liable for any error with the regard to the same. Customer uses such information at its own risk.
9. NAC certifies that it complies with all applicable requirements of Section 6, 7, and 15 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under Section 14 thereof.
10. Except for the warranty coverage referenced in paragraph 3, above. NEITHER NAC NOR ITS SUPPLIERS WILL HAVE ANY LIABILITY OR OBLIGATION TO CUSTOMER OR ANY OTHER PERSON FOR ANY CLAIMS, LOSS, DAMAGE, OR EXPENSE CAUSED IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY BY THE INADEQUACY OF ANY PRODUCTS FOR ANY PURPOSE, BY ANY DEFICIENCY OR DEFECT IN ANY PRODUCT (WHETHER OR NOT COVERED BY ANY WARRANTY), BY THE USE OR PERFORMANCE OF ANY PRODUCTS OR BY ANY FAILURE OR DELAY IN NAC’S PERFORMANCE HEREUNDER, OR FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES HOWEVER CAUSED, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR LOSS OF BUSINESS OR PROFIT, WHETHER OR NOT CUSTOMER WILL HAVE INFORMED NAC OF THE POSSIBILITY OR LIKELIHOOD OF ANY SUCH DAMAGES.
11. No order or customer obligation may be cancelled, rescheduled, reconfigured, or assigned without the NAC’s prior written authorization and, in such event, customer will be liable to NAC for any additional costs and expenses incurred by NAC. Prices are subject to change by NAC upon customer rescheduling or reconfiguration of orders. Prices are also subject to change in response to supplier price increases or if a price has been quoted in error, whereupon customer may cancel the undelivered portion of any affected order by delivering written notice to NAC prior to shipment thereof and within 10 days of its receipt of notice of the price increase.