



TrueNorth Steel, Inc. TERMS AND CONDITIONS

Underground Storage Tanks

The Plasteel® Double Wall Elutron® Jacketed Tank

- 1. ACCEPTANCE.** The following terms and conditions are attached to and incorporated in the quotation. ACCEPTANCE OF THE OFFER REPRESENTED BY THIS QUOTATION IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS HEREOF. NO TERMS ADDITIONAL TO OR DIFFERENT FROM THOSE IN THIS OFFER ARE BINDING ON THE SELLER. These terms and conditions are hereby made an attachment to any customer purchase orders.
- 2. QUOTE TERMS.** Unit prices in Seller's quotation are firm for thirty (30) calendar days from the date of the quotation, unless otherwise stated on the quotation. The products on this quote shall be subject to Seller's standard manufacturing variations, tolerances, and classifications. This quotation is based upon quantities requested by Buyer and are not guaranteed to be sufficient for Buyer's purposes. If the quotation includes delivery by Seller, Seller shall deliver to the location specified by Buyer in the quotation, or otherwise provided in writing from Buyer, the delivery will be subject to the Seller's Delivery Policy attached, number 6 of this document and attached to seller's quotation. If Buyer does not take delivery of product within 15 days of the mutually agreed upon delivery date, Seller may invoice Buyer in full. **Down payment of 50% will be required at time of order with the balance due Net 30 days from date of invoice for Buyers with approved credit, otherwise balance is due prior to delivery.**
- 3. CHANGES.** Any requests to change or modify this quotation requires a **WRITTEN REQUEST**. If quantities, product types or design layouts change from those detailed on the original quote, the original quote may be deemed invalid and Buyer must request a new quote reflecting actual quantities, product types and design layout. Previous delivery schedules and commitments may be affected as a result of changes.
- 4. OWNERSHIP OF DOCUMENTS.** All documents produced by Seller, including but not limited to designs, drawings and references associated with this quotation/order are the property of Seller and are intended solely for the specific use on this project only. Seller retains all legal rights (including copyrights) in its work product and the documents shall not be used for any alterations to the work or for future projects.
- 5. PAYMENT TERMS AND LATE CHARGES.** All sales are COD unless credit is approved in advance. Payment by Seller is due **NET 30 DAYS** from Buyer's invoice date. Pay-when-paid or paid-if-paid payment terms are not accepted by Seller. Buyer shall pay interest charges on all past due amounts at the rate of **1 3/4% PER MONTH (21% per annum)**, or if that rate is not allowed under applicable law or statute, then at the highest rate allowed under applicable law or statute. Buyer is responsible for all costs of collection including without limitation reasonable attorneys' fees and court costs. If Buyer shall fail to comply with any provision or fail to make payments in accordance with the terms of this contract or of any other contract between Buyer and Seller, Seller may at its option defer further shipments, or without waiving any other rights it may have, terminate this contract. All deliveries shall be subject to approval by Seller's Credit Department. Seller reserves the right before making any delivery to require payment in cash or security payment; and if Buyer fails to comply with such requirement, Seller may terminate this contract.
- 6. SALES TAX.** Sales tax is **NOT** included in any quotation by Seller unless specifically included. All applicable taxes shall be added and paid by Buyer in addition to the purchase price.
- 7. FORCE MAJEURE.** Seller does not assume the risk of and shall not be liable for failure to perform any obligation caused by civil insurrection, war, riot quarantine, terrorism, fire, strike, labor stoppages or other labor disturbances, acts of God, acts or omissions of Buyer, acts or omissions of any government body or entity, floods, epidemics, pandemics, freight embargoes, shortages of labor, fuel, energy or materials, failure of suppliers or subcontractors to satisfactorily meet scheduled deliveries, accidents to machinery, delays in transportation or any other cause beyond the reasonable commercial control of Seller. Upon the occurrence of any such event, Seller will make reasonable efforts to work with the Buyer to accommodate Buyer's needs but Seller retains the right to terminate this Contract without liability. In no event shall Seller be liable to Buyer for any consequential damages or claims for labor resulting from failure or delay in delivery.
- 8. DELIVERY.** Should Buyer release Seller to manufacture products, Seller expects to deliver materials within 15 working days of the original Buyer specified delivery date regardless of conditions. Should Buyer not accept delivery of material within this specified time period, Seller may invoice Buyer in full or charge storage fees.
All deliveries must accommodate normal trucks and trailers under their own power. No delivery dates are guaranteed. If conditions arise which prevent compliance with mutually agreed upon delivery schedules, including labor shortages (including those due to quarantines due to communicable diseases), fuel shortages, inclement weather and labor strikes, Seller shall not be liable for any damages or penalties for delay in delivery. Seller will make every reasonable effort to inform Buyer in advance of potential delays in delivery.
- 9. STORAGE FEES.** If delivery is delayed beyond agreed upon delivery date, as dictated by quote and subsequent purchase order, a storage charge may be applied to the associated order. This charge will be determined by the Seller and will be of an amount equal to at least the cost incurred by the Seller to store the item. Storage fees will accrue monthly and will be billed under the terms of these terms and conditions.
- 10. RETURNS.** Returns of steel storage tanks are not allowed under any circumstances. Returns of stock items associated with tanks such as pumps, hoses, fittings, valves will not be accepted after 30 days from the date of purchase. All returns must be approved prior to attempting to return materials to Seller. Buyer is responsible for the full cost of handling and returning items. Seller will charge Buyer a 25% restocking fee or \$100, whichever is greater, for all standard and commonly stocked items. Items that may not be returned include special order items or other non-stock items (definition of these items is at the discretion of Seller). Used materials or materials subject to damage of any kind may not be returned.
- 11. CANCELLATION CHARGES.** If Buyer makes a written request to Seller to cancel this order, Seller in its sole discretion, and only by written notice to Buyer, may authorize Buyer to cancel this order provided Seller has not purchased special materials for the order or started fabrication on any materials. In that event, Seller shall charge Buyer a **CANCELLATION CHARGE** of (a) up to 25% of the order price on standard stocked materials, and (b) 100% of the order price for custom or non-standard items, plus any applicable restocking fees (definition of standard, custom or non-standard items is at the discretion of seller).
- 12. CLAIMS BY BUYER.** Passage of title to items sold to Buyer shall occur immediately upon delivery and/or unloading by either party. If Buyer uses its own trucking or other means of pickup or delivery, then passage of title occurs upon completion of items being loaded at Seller's site.
- 13. Any claims by Buyer must be made promptly in writing and in no event later than thirty (30) days after transfer of title. Written notification from Buyer must detail to the Seller the exact damage or shortcoming of the item or service and the reason Seller is claimed to be responsible. Seller must be given ten (10) working days to investigate the claim and should the Seller assume responsibility, Seller will be allowed ten (10) additional working days to replace the product or to provide a remedy deemed acceptable by the owner or owner's representative. In any case, Seller must be allowed a reasonable amount of time to correct any claim of deficiency. In no circumstance will Seller assume responsibility or accept charges from Buyer without written acceptance from Seller.**
- 14. WARRANTY** Underground fuel storage tanks require specific care while handling, during and after installation. Buyer must read all handling instructions prior to delivery. Buyer is responsible for providing owner with all product maintenance and warranty information. Buyer is responsible for providing Seller with an executed copy of Certificate of Installation. Failure to comply with this requirement, and the requirements detailed in the product Operation and Maintenance document will void the product warranty. These documents, including product warranty, and additional supporting documents will be provided with the product at time of delivery and, may also be found at <https://truenorthsteel.com/tanks-containment/tanks-containment-resources/#underground>.
- 15. INDEMNITY.** To the fullest extent permitted by law, Buyer, for itself and its affiliates and subsidiaries, agrees to indemnify, defend and hold harmless Seller and its parent and affiliate companies and their respective officers, directors, shareholders, sureties, insurers, subsidiaries, employees, agents, representatives and assigns from and against any and all losses, damages, liabilities, obligations, penalties, judgments, awards, costs and disbursements, including, without limitation, any and all costs and attorneys' fees associated with investigating, preparing for and defending against any claim asserted by a third party, arising out of or relating to (a) any personal injury (including death) or property or commercial damage arising out of the failure of any product relating to this quotation, except to the extent caused by Seller's failure to comply with the plans and/or specifications buyer provides to Seller for the product(s); (b) Buyer's failure to comply with applicable laws, including, but not limited to, failure to warn; and/or (c) any gross negligence, recklessness, or intentional misconduct on the part of Buyer or its employees, agents, representatives, consultants, subcontractors and suppliers (other than Seller), officers, directors, subsidiaries, affiliates, or parent company. Seller shall also be entitled to recover from Buyer all attorneys' fees and costs Seller incurs to enforce this Order (including without limitation these Terms and Conditions).
- 16. RIGHTS AND REMEDIES NOT EXCLUSIVE.** The foregoing paragraphs of these Terms and Conditions are in addition to, and do not limit Seller's other rights or remedies. A reference to certain rights or remedies in any one paragraph of these Special Provisions does not limit Seller's rights or remedies under any other paragraph of these Special Provisions, or otherwise under this Purchase Order or at law, in equity or under applicable statute.
- 17. SEVERABILITY.** If any provision of this contract shall be declared unenforceable, only that portion necessary shall be modified or stricken and all other provisions shall remain in full force and effect.
- 18. WAIVER.** Failure of Seller to enforce any right or remedy shall not be construed as a waiver of such right or remedy
- 19. GOVERNING LAW.** This contract shall be construed, interpreted, and governed by the laws of North Dakota. The exclusive forum for any disputes arising out of or relating to this Contract shall be any federal or state court sitting in North Dakota. The parties' irrevocable consent to such exclusive jurisdiction in such courts and to the proper venue therein. If Seller must resort to legal action or remedies, Buyer shall reimburse Seller for all of Seller's legal fees and expenses, whether or not suit is filed by Seller.