

**ACTION PRODUCTS MARKETING  
STANDARD TERMS & CONDITIONS OF SALE**

1. **Agreement.** These Standard Terms & Conditions of Sale (these "Standard Terms") are the only terms and conditions pursuant to which APM sells APM Products to its Customers and these Standard Terms are incorporated in all Contracts entered into by APM. If Customer objects to any of the provisions of these Standard Terms, Customer must bring such objection to the attention of APM in a writing separate from any purchase order or other printed form of Customer, which shall be deemed to be proposals for different terms and conditions that may be accepted only in writing signed by an authorized representative of APM. All orders are subject to the approval of APM's credit department.
2. **Acceptance.** If Customer has not otherwise agreed to these Standard Terms, then Customer's acceptance of these Standard Terms shall take place at the earlier of delivery of Customer's written confirmation, Customer's order and delivery of APM Products at Customer's worksite or location, or payment to APM for APM Products.
3. **Proposals.** Unless otherwise noted in APM's Proposal, the Proposal shall lapse automatically upon the expiration of a thirty (30) day period after the date of its issue unless it has been previously accepted by Customer or revoked in writing by APM.
4. **Plans, Drawing and Illustrations.** Proposal pages, catalogue illustrations and preliminary drawings are submitted only to show the general style, arrangement, approximate dimensions and weight of APM Products. APM reserves the right to make such changes of design, specification construction or arrangement as it deems necessary or appropriate without prior notice to Customer. APM shall have no obligation to install or make such change in any APM Products manufactured prior to the date of such change.
5. **Proprietary and Confidential Information.** The Proposal and all drawings, notebooks, operating data, specifications, and other information, data and material (whether orally disclosed, printed, handwritten, typed, numerically or computer generated, computer stored, or otherwise) furnished to Customer by either APM or any of its subcontractors or sub-suppliers shall remain the proprietary and confidential property of APM or the subcontractor or sub-supplier, respectively, and shall be used by Customer only with respect to the work covered by the Contract and shall not be used by Customer in connection with any other project. Such proprietary and confidential information and data shall not be shown or otherwise made available to any third party at any time without APM's prior written consent. Neither Customer itself shall, nor shall Customer permit any third party to, reverse engineer, measure or otherwise technically examine or test APM Products without APM's prior written consent. Any such proprietary and confidential information which Customer determines must be disclosed to its employees shall only be disclosed to them on a need-to-know basis for the operation, maintenance, and repair of APM Products provided under the Contract. Intellectual property (including, without limitation, patent) rights which may be obtained on the basis of the information given or made available to Customer under the Contract or with respect to APM or APM Products shall remain the exclusive property of APM or its subcontractor and/or sub-supplier, respectively.
6. **Procedures.** Customer shall use, and shall train and require its employees to use and shall cause any end user to use, all safety devices, guards, and proper safe operating and maintenance procedures as prescribed by all applicable laws, rules, regulations, codes and standards and as set forth in operating and maintenance manuals and instruction sheets furnished by APM in respect of APM Products; provided, however, APM shall have no obligation to so provide such procedures. Customer shall not, and shall cause any end user not to, (i) remove or modify any safety device, guard or warning sign; (ii) use APM Products for any use or application not provided by the operating and maintenance manuals and instruction sheets furnished by APM; or (iii) utilize any non-original replacement parts not specifically authorized in writing by APM or make other changes in APM Products without APM's specific written authorization.
7. **Price and Payment.** The purchase price shall be paid in accordance with the Proposal. Any right to retain due payments or to set-off counterclaims shall be excluded unless any such claim or counterclaim of Customer is undisputed by APM or has been determined by a final judgment of the competent court or arbitration panel. Any tax or other governmental charge now or thereafter levied upon the production, sale, use or shipment of APM Products ordered or sold will be charged to and paid for by Customer. Such taxes are not included in APM's price(s) unless expressly so stated in the Proposal. Whatever the means of payment used, payment shall not be deemed to have been effected before APM's account has been fully and irrevocably credited. If Customer fails to pay the stipulated amount on the due date thereof, APM shall be entitled to interest from the day on which payment was due. The rate of interest shall be one and one-half percent (1-1/2%) per month until the payment is made in full or, in the event such rate exceeds that permitted by applicable law, the maximum rate permitted by applicable law. Additionally, if APM is required to expend costs and expenses in collecting any payments, Customer shall reimburse APM for such costs of collection (including reasonable attorneys' fees). In case of late payment, APM may suspend its performance of the Contract until it receives payment in full or may terminate the Contract upon the giving of notice required by the Contract documentation, if any. APM's claim for compensation for the losses and damages it has incurred shall survive any such termination.
8. **Transportation.** Unless otherwise agreed to by APM and Customer, all APM Products shipped to domestic US locations are F.O.B. APM's location. International shipments are FCA APM location (INCOTERMS 2000). Carrier routing instructions shall be provided to APM by Customer at least 48 hours prior to shipment. Shipments without Customer-specified routings shall be shipped by APM's selected carriers. APM Products on which manufacture or delivery is delayed due to any cause within Customer's control may be placed in storage by APM, for Customer's account and risk, and regular charges and expenses in connection therewith shall be paid by Customer; provided, if, in APM's sole opinion, it is unable to obtain or continue such storage, Customer will, on request, provide or arrange for suitable storage facilities and assume all costs and risks in connection therewith. When such delay is due to causes beyond control of either party, the matter of storage and the payment of charges therefore shall be negotiated in good faith.
9. **PLI's Remedies.** Without limiting any of APM's rights or remedies pursuant to the Contract, in the event of a material deterioration of Customer's financial situation or in the event of the insolvency of Customer, APM reserves the right to terminate the Contract as well as the right to stop delivery of any APM Products and to resell the same. Such a right shall not restrict or otherwise impair APM's remedies for damages in the event of Customer's breach. Should Customer fail to comply with the terms and conditions set forth herein, or if any writ or execution be levied on any of Customer's property, or a receiver be appointed, or if a petition in bankruptcy be filed by or against Customer, APM may, upon election, demand the entire purchase price stated in any then-pending or open orders or purchases for APM Products not yet paid in full by Customer or may, without notice or demand by process of law or otherwise, take possession of all or any of the APM Products, wherever located, and retain all monies theretofore paid as compensation for the

reasonable use of such APM Products. If the Contract is breached and is placed in the hands of an attorney or collection agency for collection of any balance due or enforcement of any other of APM's remedies, Customer agrees to pay all reasonable attorneys' fees and other fees and expenses involved therein paid or incurred by APM. Customer hereby waives any and all claims, damages and demands against APM arising out of the repossession, retention and repair as aforesaid. All rights and remedies contained herein are cumulative and not alternative. APM reserves all other rights and remedies at law or equity available to it in the event of Customer's breach.

10. **Limited Warranty.** Each APM Warranty as in effect on the date hereof is incorporated herein as if fully set forth herein and apply to such APM Products as may be identified in such APM Warranty. APM does not warrant any pipe protection or rehabilitation materials not manufactured by APM; provided, APM shall cooperate in good faith with Customer to enable Customer the benefit of any manufacturer's warranty applicable to such materials, if any.
11. **PLI's Liability; Force Majeure.** Without limiting any other provision in these Standard Terms, APM shall not be liable for delay or loss or damage of any kind resulting from: (i) Customer failing to supply any necessary technical data, as required; (ii) Customer failing to supply the apparatus, materials and services required; (iii) any changes in designs or specifications made subsequent to acceptance of the Proposal; (iv) failure of suppliers to furnish purchased material or goods within scheduled dates; (v) by any other reason beyond APM's control; or (vi) any delay caused by late payments by Customer. Further, APM shall not be liable for any loss or damage from delay in completion or delivery of any APM Products as a result of causes of any kind beyond the reasonable control of APM, including, but not limited to, strikes or other labor difficulties, war, riots, changes in laws and regulations and other acts of governmental authorities, inclement weather, fire, flood or unavoidable casualties, any delays in transportation of materials, or APM's inability to obtain timely delivery of materials from suppliers. In the event of any such delay, APM will notify Customer within a reasonable time after APM becomes aware of such cause of delay and it is agreed that the time for delivery or completion shall be extended for a period of time at least equal to the time lost by reason of the delay.
12. **Standards and Tolerances.** All APM Product dimensions and published information are subject to change without notice. All APM Products furnished to Customer shall also be subject to tolerances and variations consistent with usages of the trade concerning dimensions, composition and mechanical properties and normal variations in performance characteristics and quality.
13. **General Provisions.** Customer may not assign the Contract or its rights or delegate its duties pursuant to the Contract (including these Standard Terms) without the prior written consent of APM. Any such assignment by Customer, without such consent, shall be void. These Standard Terms shall inure to the benefit of APM and its successors and assigns. These Standard Terms supersede all other communications, negotiations and prior oral or written statements regarding the subject matter of these Standard Terms. No change, modification, rescission, discharge, abandonment, or waiver of these Standard Terms shall be binding upon APM unless made in writing and signed on its behalf by a duly authorized representative of APM. No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these Standard Terms shall be binding unless hereafter made in writing and signed by the party to be bound, and no modification or additional terms shall be applicable to the Contract by APM's receipt, acknowledgment, or acceptance of purchase orders, shipping instruction forms, or other documentation containing terms at variance with or in addition to those set forth herein. Any such modifications or additional terms are specifically rejected and deemed a material alteration hereof. If this document shall be deemed an acceptance of a prior offer by Customer, such acceptance is expressly conditional upon Customer's assent to any additional or different terms set forth herein. No waiver by either party with respect to any breach or default or of any right or remedy, and no course of dealing, shall be deemed to constitute a continuing waiver of any other breach or default or of any other right or remedy, unless such waiver be expressed in writing and signed by the party to be bound. All typographical or clerical errors made by APM in any quotation, acknowledgment or publication are subject to correction.
14. **Dispute Resolution; Governing Law.** Any determination, agreement or performance which is disputed or cannot be made, resolved or agreed within fourteen (14) days of the date requested by either Customer or APM or such longer period for resolution as may be mutually agreed shall be submitted for resolution by the chief executive officers of Customer and APM. It shall be a condition precedent to any subsequent proceeding that the dispute shall be submitted for resolution by such chief executive officers, but if those officers shall not reach a resolution within twenty-one (21) days of submittal to them, then the matter shall be finally settled by arbitration under the Rules of the American Arbitration Association by one or more arbitrators appointed in accordance with such Rules. The place of arbitration will be Chicago, Illinois. The contract between APM and Customer and their respective performances shall be construed under and governed by the laws of the State of Illinois; provided, however, no action, regardless of form or dispute resolution mechanism, arising out of transactions relating to the Contract, may be brought by either party more than two (2) years after the cause of action has accrued. The U.N. Convention on Contracts for the International Sales of Goods shall not apply to this agreement.
15. **Definitions.** In these Standard Terms:
  - A. "Contract" means the contract between APM and Customer for the supply of APM Products which will comprise these Standard Terms, APM's Proposal, any documents referred to in the Proposal as forming part of the contract, Customer's order and APM's confirmation of that order (or Customer's unqualified acceptance of the Proposal);
  - B. "APM Products" means the pipe protection or rehabilitation materials to be supplied to Customer under the Contract;
  - C. "Proposal" means APM's written proposal or quotation to Customer for the supply of APM Products;
  - D. "Customer" means the person identified as the purchaser of APM Products in the Proposal and the Contract; and
  - E. "APM" means Action Products Marketing Corp. and ConShield Technologies, Inc.
  - F. "APM Warranty" means each of (i) that certain ConShield Technologies, Inc. Warranty, and (ii) that certain AP/M PermaForm Warranty Statement.