

Consolidated Pipe & Supply Company, Inc.
Terms and Conditions of Purchase (CPS as Buyer)

1. **ENTIRE AGREEMENT**. These general terms and conditions of purchase (these "Terms") are the only terms which govern the purchase of the goods ("Goods") by Consolidated Pipe & Supply Company, Inc. ("Buyer") from the party to whom the Order is addressed ("Seller"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said written contract shall prevail over these Terms to the extent and only to the extent that such terms and conditions specifically address and are inconsistent with the provisions hereof. The accompanying purchase order (the "Order") and these Terms (collectively, this "Agreement") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Seller's general terms and conditions of sale regardless of whether or when Seller has submitted its sales confirmation or such terms. Fulfillment of the Order constitutes acceptance of these Terms.

2. **PRICE; PAYMENT; TAXES; DELIVERY**. The cost and payment terms of the Goods will be those specifically set forth in the Order, except that Buyer will receive the benefit of any price declines that occur prior to actual time of shipment. No increase in the price is effective, whether due to increased material, labor or transportation costs, without the prior written consent of Buyer. Unless otherwise stated and except for any amounts disputed by Buyer in good faith, payments will be due net 30 days following receipt of delivery of the Goods. Seller will pay all excise, transportation, occupational and other taxes applicable to receipts under this Agreement and on all Goods furnished. Any extra handling charges incurred due to the failure of Seller to follow instructions in filling the Order will be paid by Seller. Unless otherwise stipulated in the Order, Goods will be delivered FOB (free on board) to the address specified in the Order. Title will pass to Buyer only upon delivery to Buyer's specified end destination on Buyer's shipping date (during Buyer's normal business hours) AND acceptance by Buyer. Time of delivery is of the essence, and in the event of Seller's failure to deliver as and when specified, Buyer reserves the right to cancel the Order without charge, without prejudice to its other rights, and Seller agrees that Buyer may return all or part of any shipment so made and Seller shall indemnify Buyer against any losses, claims, damages, and reasonable costs and expenses attributable to Seller's failure to deliver. Any shipment made in advance of schedule, at Buyer's option, will be (a) accepted but entry of invoice will be deferred until such time as shipment was scheduled to be made, or (b) returned to Seller at Seller's expense.

3. **INSPECTION**. Buyer has the right to inspect the Goods on or after the delivery date. Buyer, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Buyer rejects any portion of the Goods, Buyer has the right to: (a) rescind this Agreement in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming or defective Goods and pay for all related expenses. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller the cost thereof. Any obligations or other action by Buyer under this Section shall not reduce or otherwise affect Seller's obligations under this Agreement, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.

4. **INDEMNITY**. Seller will be responsible to the fullest extent permitted by applicable law to indemnify, defend and hold Buyer harmless from and against any and all claims, losses, suits, damages, liabilities, settlements, expenses and costs (including without limitation attorneys' fees and other costs of litigation) that, directly or indirectly, arise from or relate to (a) any breach or violation of this Agreement, including any warranty or guarantee; (b) any claim that Buyer's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party; or (c) sickness, disease, damage, death or injury ("Injury" or, collectively, "Injuries") to any person or

persons caused by Seller's negligence or willful misconduct; and (d) damage or Injury to any person or property (including loss of use thereof) of Buyer or others including Buyer's customers arising out of or in any way connected with Goods; provided, however, that Seller will have no obligation to indemnify Buyer for claims or losses described in clause (c) or (d) above that arise solely from Buyer's intentional misconduct.

5. INSURANCE. Seller will maintain and require its subcontractors to maintain in effect through the entire term of this Agreement the following insurance coverage (in an "occurrence" policy form) with insurance companies and in amounts satisfactory to Buyer in its sole discretion: (a) a policy insuring Seller's indemnity obligations under this Agreement; (b) workers' compensation for occupational diseases and for Injuries (as defined in Section 4 above) sustained by Seller's employees or employees of its subcontractors as required by law; (c) a policy insuring Seller's and/or Buyer's liability for any property damage, Injuries sustained by any person or persons, including Seller's employees, which was in any manner caused by, arising from or related to Goods and/or the condition of Buyer's land, buildings, equipment or vehicles; and (d) commercial general liability insurance (including product liability) having limits at least consistent with industry standards. Upon Buyer's request, Seller will furnish certificates of insurance showing "Consolidated Pipe & Supply Company, Inc., its divisions and subsidiaries" as certificate holder and will include: (i) a statement that notice of cancellation will be provided in accordance with policy provisions; (ii) a statement that the certificate holder is an additional insured on the policies for occurrences arising from or related to the Goods; and (iii) a waiver of any and all rights of subrogation against the certificate holder. Policies maintained pursuant to this Section will be primary, not excess or contributory, in regard to any other applicable policies Buyer might have. The insurance required by this Section will not limit Seller's liability to Buyer under this Agreement or limit the rights or remedies available to Buyer at law or in equity.

6. WARRANTIES AND GUARANTEES. Seller warrants that it has clear title to all Goods furnished and that the Goods are free of all liens, encumbrances and security interests. Unless otherwise specified in writing by Buyer, all Goods provided by Seller will be new. In addition to all warranties prescribed by law or given by Seller, all Goods (including any approved samples) will be of good quality; will conform to the requirements of this Agreement and Buyer's specifications, descriptions and drawings; will be merchantable and fit for Buyer's intended use; and will be free from defects in design, material and workmanship. Seller warrants that any Goods purchased pursuant to this Agreement, and the sale and/or use thereof, will not infringe any U.S. Letter Patent. If Seller encounters unknown or latent conditions which could impair the performance or quality of Goods, Seller will give immediate notice of the nature of such condition to Buyer. Seller will obtain from subcontractors and vendors all available warranties and guarantees with respect to design, materials, workmanship, equipment and supplies furnished for Buyer's benefit. Should a subcontractor or vendor seek to defend on grounds that Seller committed error, Buyer may enforce this warranty against Seller and Seller will resolve all such issues with the subcontractor/vendor. This warranty will survive Buyer's acceptance of Goods and shall run to Buyer's successors, assigns, customers and users of the Goods.

7. DEFAULT; REMEDIES. Each of the following will constitute an event of "Default" by Seller: (a) failure to deliver Goods within the time or with the quality specified or guaranteed in this Agreement; (b) failure to comply with any provisions of this Agreement including breach of any warranty or guarantee; or (c) adjudication of Seller as bankrupt or Seller's making a general assignment for benefit of creditors or appointment of a receiver on account of Seller's insolvency. Upon Seller's Default, Buyer may immediately, without prejudice to any other right or remedy it may have at law or in equity: (i) terminate the relationship with Seller or the Order with Seller and obtain a return of all money already paid to Seller for Goods, or, at its sole option and without liability to Seller, suspend delivery of Goods until Seller furnishes satisfactory evidence that such Default has been cured; (ii) take possession of any of Seller's

samples and materials held by Buyer; (iii) correct any non-conformity at Seller's expense by whatever method Buyer deems expedient; (iv) reject, repair or replace non-conforming Goods or procure same or similar Goods from another source, in which case Seller will be liable to Buyer for any additional costs or expenses incurred by Buyer; or (v) require Seller to correct or cure any non-conformity at Seller's expense. In addition, Buyer reserves all other rights and remedies available to it at law or in equity. Seller agrees to cooperate with Buyer in any way reasonably required to purchase replacement Goods. In addition to its other remedies, Buyer will have a right of set-off and may withhold from time to time out of monies due Seller, amounts sufficient to fully compensate Buyer for any loss or damage resulting from any Default or breach by Seller. As an alternative, Buyer may, in its sole discretion, extend the delivery or completion schedule or waive any deficiencies in performance; provided, however, that no such waivers or extensions will be binding unless in writing and signed by Buyer's authorized representative. Buyer will have the right at any time to require adequate assurances of Seller's performance. In any action or proceeding between the parties, the prevailing party will be entitled to recover all of its reasonable attorneys' fees, expenses and other costs of litigation from the non-prevailing party.

8. CONFIDENTIAL INFORMATION. All non-public, confidential or proprietary information of Buyer, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Buyer to Seller, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, to be used solely for the purpose of performing this Agreement and may not be disclosed or copied unless authorized in advance by Buyer in writing. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section.

9. LIENS. Seller will pay, satisfy and discharge all mechanics', suppliers', materialmen's and other liens and all claims, obligations and liabilities which may be asserted against Buyer or its property by reason of, or as a result of, Seller's acts or omissions relating to furnishing of Goods governed or controlled by this Agreement.

10. LABOR RELATIONS. Seller will promptly undertake all reasonable efforts to prevent or resolve any strikes or other labor disputes among its employees or employees of its subcontractors. If such a dispute occurs, Seller will take all reasonable actions to minimize any disruption of delivery of Goods. Seller will immediately advise Buyer in writing of any possible labor dispute which may affect performance hereunder including the delivery of Goods.

11. COMPLIANCE WITH LAWS. Seller in the performance of this Agreement will comply with all applicable federal, state and local laws, codes, regulations and ordinances, including, but not limited to: (a) all applicable environmental laws; (b) all applicable laws and regulations addressing human trafficking and slavery; and (c) all applicable Equal Opportunity requirements including those set forth in Executive Order 11246, the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, and regulations promulgated thereunder and laws prohibiting discrimination against any person because of veteran status, disability, race, creed, color, national origin, religion, age or sex in any term or condition of employment, which are incorporated herein by this reference. Specifically, Seller and its subcontractors and vendors will abide by the requirements of 41 C.F.R. §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status

or disability. Seller will take reasonable measures to ensure that those who supply components or materials that are incorporated into Goods supplied to Buyer also comply with such laws and regulations.

12. CONTROLLING LAW AND CONSENT TO VENUE. This Agreement shall be governed by, and construed in accordance with, the internal laws of the State of Alabama, without regard to its conflict of laws rules. Except when the dispute is arbitrated, the parties irrevocably agree that the exclusive venue for all disputes between the parties will be the state and federal courts located in Birmingham, Alabama. Seller hereby irrevocably consents to jurisdiction in the state and federal courts in Birmingham, Alabama. Seller waives any objection or defense (a) that Seller is not personally subject to the jurisdiction of the state and federal courts in Birmingham, Alabama; (b) that venue of the action is improper in the state and federal courts in Birmingham, Alabama; and/or (c) that the action, suit, or proceeding is brought in an inconvenient forum. In addition to any other mode of service of process authorized by law, Seller consents to service of process by registered or certified mail.

13. ARBITRATION; DISPUTE RESOLUTION; PRESERVATION OF FORECLOSURE REMEDIES. All disputes, claims or controversies (individually or collectively, a "Dispute") between Seller and Buyer arising out of or relating to this Agreement, including without limitation Disputes based on or arising from an alleged tort, will be resolved by binding arbitration in accordance with Title 9 of the U.S. Code and the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). Disputes will be arbitrated in Birmingham, Alabama. Defenses based on statutes of limitation and similar doctrines will be applicable in any such proceeding, and commencement of an arbitration proceeding under this Agreement will be deemed commencement of an action for such purposes. The parties will select arbitrators in accordance with the Commercial Arbitration Rules of the AAA. The AAA will designate a panel of ten potential arbitrators knowledgeable in the subject matter of the Dispute. Seller and Buyer will each designate, within thirty (30) days of receipt of the list of potential arbitrators, one of the potential arbitrators to serve, and the two arbitrators so designated will select a third arbitrator from the eight remaining candidates.

14. WAIVER. No waiver of any provision, right or remedy contained in this Agreement, including the terms of this Section, is binding on, or effective against, Buyer unless expressly set forth in writing and signed by Buyer's authorized representative. Seller expressly agrees that no right or remedy provided for in this Agreement can be waived through course of dealing, course of performance or trade usage. Seller expressly agrees and acknowledges that reliance on any waiver without Buyer's written consent is unreasonable. Waiver by Buyer of any breach shall be limited to the specific breach so waived and shall not be construed as a waiver of any subsequent breach. Buyer's approval or consent to any action proposed by Seller will not be considered an agreement to the propriety, fitness or usefulness of the proposed action, and will not affect Seller's obligation to strictly comply with this Agreement and the Order.

15. ASSIGNMENT. Seller shall not assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of Buyer. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Seller of any of its obligations hereunder. Buyer may at any time assign or transfer any or all of its rights or obligations under this Agreement without Seller's prior written consent to any affiliate or to any person acquiring all or substantially all of Buyer's assets.

16. CUMULATIVE NATURE OF REMEDIES. Buyer's remedies under this Agreement are cumulative and in addition to any other remedies available to Buyer, whether at law, equity or otherwise.

17. SEVERABILITY. If any provision or part of a provision contained in this Agreement is held by a court of competent jurisdiction to be contrary to law or public policy, the remaining provisions of the

Agreement will remain in full force and effect.

18. CONSTRUCTION. No provision of this Agreement may be construed against Buyer as the drafting party.

19. RELATIONSHIP OF PARTIES. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. No relationship of exclusivity shall be construed from this Agreement.

20. FORCE MAJEURE. Other than as set forth herein, neither party will be liable for delays in performance caused by acts of God, strikes or labor disturbances or other delays in performance due to any contingency beyond the party's control that directly and materially prevents such party from performing its obligations hereunder (other than delays caused by general economic conditions). In the event of any such occurrence, the period for the party's performance affected thereby will be extended for such period as reasonably required under the circumstances.