

**CONSOLIDATED PIPE & SUPPLY COMPANY, INC.**  
**GENERAL TERMS AND CONDITIONS OF SALE**

**1. ENTIRE AGREEMENT.** Consolidated Pipe & Supply Company, Inc. and each of its divisions and subsidiaries (“Seller”), agrees to sell the goods covered herein and hereby (the “Goods”) to Buyer on the following terms and conditions of sale (“Terms and Conditions”). Acceptance of orders, whether oral or written, and/or delivery to Buyer is based on the express condition that Buyer agrees to Seller’s General Terms and Conditions of Sale. Terms and conditions contained in the purchase order issued by Seller to Buyer shall supplement and govern over these Terms and Conditions, to the extent that these Terms and Conditions hereunder are silent or inconsistent with the purchase order, and are specifically incorporated by reference herein. Buyer and Seller expressly agree that Seller may modify these Terms and Conditions from time to time without notice, and such modifications shall be binding upon Buyer. Accordingly, each request for quote, order, acceptance of Goods and/or payment to Seller by Buyer shall be deemed an acknowledgment and acceptance by Buyer of these Terms and Conditions as then in effect. These Terms and Conditions, as may be subsequently modified by Seller from time to time without notice, are incorporated by reference into all documents issued by Seller to Buyer in connection with the sale and/or provision of Goods; provided, however, that these Terms and Conditions shall only apply to the sale of Goods by Seller in or to locations within the United States.

**2. QUOTATIONS.** Where this Agreement is used by Seller to place a bid, the quotation stated herein is for prompt acceptance and Seller may change and/or withdraw without notice. Buyer’s prompt acceptance of all quotations, within thirty (30) days of the date of issuance, is a material term of the bid and any subsequent agreement.

**3. ACCEPTANCE.** The Seller’s quote for the sale of goods provided to Buyer, which is subject to these Terms and Conditions, shall not become a contract, or be binding on Seller, unless such quote is agreed upon by the home office of Consolidated Pipe & Supply Company, Inc. in Birmingham, Alabama, through a writing signed by an authorized representative of Seller at such home office.

**4. DELIVERY.** All prices are based upon shipment using F.O.B. Origin, unless otherwise specified by Seller in writing. Any time period indicated for a shipment will not commence until receipt at Seller’s facility of complete shipping and credit information. Acceptance of shipment by designated shipper, allocation of the Goods to Buyer at premises other than Seller’s, delivery to Buyer’s representative or designee or mailing of an invoice to Buyer, whichever first occurs, will constitute tender of delivery and title will pass to Buyer, subject to Seller’s right of stoppage in transit and to any interest of Seller reserved to secure Buyer’s payment or performance, irrespective of any freight allowance or prepayment of freight. In the case of Goods held subject to Buyer’s instructions, Goods for which Buyer has failed to supply shipping instructions or in any case where Seller, in its sole discretion, determines any part of the Goods should be held for Buyer’s account, Seller may invoice the Goods and Buyer agrees to make payment at the maturity of the invoice rendered. Goods invoiced and held at any location for whatever reason will be at Buyer’s risk and Seller may charge for (but is not obligated to carry) insurance, storage and other expenses incident to such delay at its prevailing rates. When Buyer has declared or manifested an intention not to accept delivery, no tender will be necessary, but Seller may, at its option, give written notice to Buyer that Seller is ready and willing to deliver and such notice will constitute a valid tender of delivery. Buyer must report any shortages or defects as to a shipment within ten (10) days of receipt of such shipment.

**5. LOSS OR DAMAGE IN TRANSIT.** Buyer may not make any deduction from any payment due hereunder by reason of loss or damage to the Goods in transit. Upon Buyer’s written request, Seller, in its sole discretion, may agree as a service to Buyer to process Buyer’s claim against the carrier for any loss or damage in transit, provided that Seller receives such claim within five (5) days of delivery of the Goods. Any such claims must be accompanied by a delivery receipt, signed by carrier’s agent at time of delivery, or such claims will be waived. Claims for material damaged during shipment by common carrier must be made within the time for claims specified by the common carrier used, or such claims are waived. If material is delivered by Seller, claims for materials damaged during shipment must be made within ten (10) days of delivery, or such claims are waived.

**6. TERMS OF PAYMENT.** Unless otherwise agreed, payments are due net thirty (30) days. If, at any time or for any reason, Seller has cause to question Buyer’s ability to perform, Seller may demand such assurances of Buyer’s performance as Seller deems necessary in its sole discretion, including payment in advance for all shipments. If Buyer fails within ten (10) days of Seller’s demand to provide Seller with such assurance, Seller may suspend its performance, cancel any order then outstanding, receive reimbursement for its reasonable and proper cancellation charges and collect, without limitation, any sums due and owing, reasonable cancellation charges and all damages resulting from Buyer’s default. In the event of Buyer’s bankruptcy or insolvency, or in the event of any proceeding brought against Buyer, voluntarily or involuntarily, under bankruptcy or any insolvency laws, Seller may cancel any order then outstanding at any time and receive reimbursement for its reasonable and proper cancellation charges. If Buyer fails to make payment for the Goods when due, Buyer’s account will be deemed delinquent and Buyer will be liable to Seller for a service charge of eighteen percent (18%) per annum or the maximum allowed by law, whichever is less, on any unpaid amount. Buyer will be liable to Seller for all costs and expenses of collection, including court costs and reasonable attorneys’ fees. A \$28.00 fee will be added to Buyer’s account for each returned check.

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**7. CANCELLATION, CHANGES AND RETURNS.**

A. Changes Required By Governmental Authority. If changes in the design of the Goods, or the method or requirements for transportation of the Goods are required due to changes in governmental (federal, state or local) requirements after the effective date of this Agreement, then an equitable adjustment shall be made in the price, terms of payment, delivery schedule and other pertinent provisions of this Agreement.

B. Changes Requested by Buyer. In the event of a proper cancellation of an order, change or return request from Buyer under this Agreement, Seller may, at its option: (A) charge Buyer for any costs Seller incurred prior to or as a result of such cancellation, change or return; (B) revise its prices and delivery dates to reflect such change; and/or (C) accept returned Goods for credit if, in Seller's sole discretion, it finds such Goods to be standard stock and in good condition. The credit will be, in Seller's sole discretion, either the invoice price less a percentage to be determined by Seller or the scrap value of the Goods, along with shipping and handling charges to be determined by Seller.

C. Return. All returned Goods must be securely packed by Buyer to ensure that the returned material is not damaged during shipment. There will be a twenty-five percent (25%) restocking fee charged to Buyer by Seller for all returned Goods. No credit will be given for returns of discontinued materials or Goods, for materials or Goods specially manufactured for Buyer, or for materials or Goods not purchased directly from Seller.

**8. DELAY IN OR PREVENTION OF PERFORMANCE.** Seller will not be liable for any expense, loss or damage resulting from delay in delivery or prevention of performance caused by any event beyond Seller's reasonable control (collectively, a "Force Majeure"), including without limitation: fire; flood; storm; act of God; strike, labor dispute or labor shortage; lack of or inability to obtain materials, fuels, supplies or equipment; civil unrest or riots; accident; transportation delay or shortage; act or failure to act of Buyer or any government; or any other cause whatsoever, provided that such cause is beyond Seller's reasonable control. Seller will have such additional time for performance as may be reasonably necessary under the circumstances and may adjust the price to reflect increases occasioned by Force Majeure. Buyer's acceptance of any Goods will constitute Buyer's waiver of any claim for damages on account of any delay in delivery of such Goods. If delivery is delayed or interrupted by Force Majeure, Seller may store the Goods at Buyer's expense and risk and charge Buyer a reasonable storage rate. If Seller is delayed because it is awaiting Buyer's approval or acceptance of designs, drawings, prints or engineering or technical data, or is awaiting Buyer's approval or acceptance of the Goods, Seller will be entitled to an adjustment in price commensurate with any increase in Seller's production costs and any other losses and expenses incurred by Seller attributable to such delays.

**9. DEFERRED DELIVERY.** If Buyer requests a deferred delivery on any order and Seller approves in writing, Seller may charge Buyer for the completed portion of the order and warehouse all completed Goods at Buyer's expense and risk of loss. As to any uncompleted portion of this Agreement, Seller may, at its option, cancel said uncompleted portion in accordance with Paragraph 7 or revise its prices and delivery schedules on the portion not completed to reflect its increased costs and expenses attributable to the delay.

**10. WARRANTY AND BUYER'S REMEDIES.** Seller agrees to pass on to Buyer the third-party manufacturer's warranty, if any, for all Goods manufactured by such third-party and sold by Seller, which may be a limited warranty. Seller's SOLE AND EXCLUSIVE WARRANTY to Buyer with respect to such Goods is that such Goods conform to the grade or type, size and quantity specified in the invoice to which these terms and conditions relate. Only with respect to Goods manufactured and/or fabricated by Seller, Seller warrants that the Goods will be of the kind described by Buyer's specifications and free from defects in material and workmanship under conditions of normal use for a period of one (1) year. Seller will not be liable or responsible, however, for (A) any defects attributed to normal wear and tear, corrosion, improper storage, use or maintenance or use of the Goods with incompatible products, (B) defects in or arising from the design and/or specifications provided by Buyer, or (C) any express or implied warranties against infringement of intellectual property rights of third parties. All warranties are void if the Goods are modified or used in conjunction with products or accessories which are incompatible with the Goods. Any claim by Buyer with reference to the Goods for any cause will be deemed waived by Buyer unless submitted to Seller in writing within ten (10) days from the date Buyer discovered any claimed breach. Buyer will give Seller an opportunity to investigate. Provided that Buyer furnishes prompt notice to Seller of any defect and an opportunity to inspect the alleged defect as provided herein, Seller will, at its option and in its sole discretion, either: (i) repair the defective or non-conforming Goods; (ii) replace nonconforming Goods, or part thereof, which are sent to Seller by Buyer within sixty (60) days after receipt of the Goods at Buyer's plant or storage facilities; or (iii) if Seller is unable or chooses not to repair or replace, return the purchase price that has been paid and cancel any obligation to pay unpaid portions of the purchase price of nonconforming Goods. In no event will any obligation to pay or refund exceed the purchase price actually paid. Repair and/or replacement as provided above will be shipped F.O.B Origin as agreed in writing by Seller. Buyer will prepay all transportation charges for return of the Goods or part thereof to Seller, unless otherwise agreed in writing by Seller. Seller will not be responsible for any labor, removal or installation charges that may result from the

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above-described repair and/or replacement of any Goods. This warranty does not cover failure of any part or parts from external forces, including without limitation earthquake, installation, vandalism, impact or other Force Majeure. Buyer's exclusive remedy and Seller's sole liability for any loss, damage, injury or expense of any kind arising from the manufacture, delivery, sale, installation, use or shipment of the Goods, and whether based on contract, warranty, tort or any other basis of recovery whatsoever, will be, at Seller's election, the remedies described above. The foregoing is intended as a complete allocation of risks between the parties and Buyer understands that it will not be able to recover consequential damages even though it may suffer such damages in substantial amounts. Because this Agreement and the price paid reflect such allocation, this limitation will not have failed of its essential purpose even if it operates to bar recovery for such consequential damages. Seller assumes no responsibility whatsoever for its interpretation of plans or specifications provided by Buyer as to the Goods. Buyer's acceptance of the Goods must be premised on final approval by its own architects and engineers (and not on Seller's interpretation of plans or specifications).

**11. LIMITATION OF LIABILITY.** THE WARRANTIES IN PARAGRAPH 10 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED BY LAW OR STATUTE OR ARISING FROM TRADE USAGE OR COURSE OF DEALING. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR STRICT LIABILITY, WILL SELLER BE LIABLE FOR ANY PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF PROFIT OR REVENUE, LOSS OF USE OF GOODS OR OTHER PROPERTY OR EQUIPMENT, DAMAGE TO OTHER PROPERTY, COST OF CAPITAL, LOSSES OR DAMAGES CAUSED BY REASON OF UNAVAILABILITY OF THE POWER SYSTEMS, PRODUCTION FACILITIES OR EQUIPMENT, FACILITY SHUTDOWNS OR SERVICE INTERRUPTIONS, COST OF SUBSTITUTE GOODS, DOWNTIME OR CLAIMS OF BUYER'S CUSTOMERS FOR ANY OF THE AFORESAID DAMAGES. SELLER WILL NOT BE LIABLE AND BUYER AGREES TO INDEMNIFY SELLER FOR ALL PERSONAL INJURY, PROPERTY DAMAGE OR OTHER LIABILITY RESULTING IN WHOLE OR IN PART FROM THE GOODS OR THE USE THEREOF (INCLUDING WITHOUT LIMITATION CLAIMS RELATED TO INTELLECTUAL PROPERTY RIGHTS), EXCEPT AS EXPRESSLY WARRANTED BY SELLER IN PARAGRAPH 10. NO CLAIMS OF ANY NATURE, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, MAY BE BROUGHT AGAINST SELLER MORE THAN ONE (1) YEAR AFTER DELIVERY OF GOODS TO BUYER. In any contract by Buyer for resale of the Goods, Buyer effectively disclaims, as against Seller, any implied warranty of merchantability and all liability for property damage or personal injury resulting from the handling, possession or use of the Goods, and excludes, as against Seller, any liability for special or consequential damages.

**12. CONTROLLING LAW AND CONSENT TO VENUE.** This shall be governed by, and construed in accordance with, by 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, U.S.A. Buyer hereby irrevocably consents to jurisdiction in the state and federal courts in Birmingham, Alabama, U.S.A. Buyer waives any objection or defense that Buyer is not personally subject to the jurisdiction of the state and federal courts in Birmingham, Alabama, U.S.A.; that venue of the action is improper in the state and federal courts in Birmingham, Alabama, U.S.A.; and/or 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, Buyer consents to service of process by registered or certified mail.

**13. COMPLIANCE WITH LAWS.** Buyer represents and warrants, in connection with the transactions contemplated by this Agreement, and any other agreement contemplated by or entered into pursuant to this Agreement, (A) that Buyer will comply with all governmental laws, regulations and orders that may be applicable to Buyer, including without limitation all laws and regulations regarding export controls (including, but not limited to, 15 CFR Parts 730 et seq., 10 CFR Part 110, and 10 CFR Part 810), import controls, economic sanctions and trade embargoes, anti-boycott restrictions, anti-money laundering laws and anti-corruption laws, including without limitation the U.S. Foreign Corrupt Practices Act (as amended) and the United Kingdom Bribery Act, as amended (collectively, "Applicable International Trade and Anti-Corruption Laws"); and (B) to the extent Buyer owns or operates one or more facilities where the Goods will be installed and/or operated, that Buyer has established and implemented a quality assurance program consistent with its safety or quality classification meeting the applicable state or federal requirements related to quality control and quality assurance. Buyer will comply with all applicable Equal Employment Opportunity requirements including those set forth in Executive Order 11246 and the Vietnam Era Veterans Readjustment Assistance Act of 1974, and regulations promulgated thereunder. Buyer acknowledges and confirms that it and its officers, directors, employees, agents, contractors, designees and/or any other party acting on its behalf (collectively "Related Parties") are familiar with the provisions of Applicable International Trade and Anti-Corruption Laws. Buyer agrees to indemnify, defend and hold harmless Seller and its employees from and against any and all claims, demands, costs, penalties and fines arising in connection with any alleged breach by Buyer or any of its Related Parties of this Paragraph 13. Seller may terminate this Agreement in its entirety, without liability to Buyer, if Seller believes in good faith that Buyer or any of its Related Parties has violated or intends to violate this Paragraph 13.

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**14. 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, U.S.A. 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. Notwithstanding the foregoing, Seller reserves the right to resolve or bring any Dispute in a court of competent jurisdiction in accordance with Paragraph 12.

**15. WAIVER.** No waiver of any provision, right or remedy contained in this Agreement, including the terms of this Paragraph 15, is binding on, or effective against, Seller unless expressly set forth in writing and signed by Seller's authorized representative. Buyer 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. Buyer expressly agrees and acknowledges that reliance on any waiver without Seller's written consent is unreasonable. Waiver by Seller of any breach shall be limited to the specific breach so waived and shall not be construed as a waiver of any subsequent breach. Seller's approval or consent to any action proposed by Buyer will not be considered an agreement to the propriety, fitness or usefulness of the proposed action, and will not affect Buyer's obligation to strictly comply with this Agreement and all related orders.

**16. ASSIGNMENT.** Buyer may not assign this Agreement or any rights or obligations hereunder without Seller's prior written consent. Any attempted assignment in contravention of this Paragraph 16 is void. This Agreement, and the Terms and Conditions contained herein, are enforceable against Buyer's successors and permitted assigns.

**17. TAXES.** Seller's prices do not include sales, use, excise or other similar taxes. Consequently, in addition to the price specified herein, Buyer will pay the amount of any present or future such tax unless Buyer, at the time of sale, provides Seller with all tax-exemption certificates required by the taxing authorities.

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

**19. 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.

AGREED TO THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_:

NAME OF BUYER: \_\_\_\_\_

SIGNATURE OF AUTHORIZED AGENT: \_\_\_\_\_

NAME & TITLE OF AUTHORIZED AGENT: \_\_\_\_\_