



# Quality Pipe Products, Inc.

Pipe Nipple Manufacturer - Master Distributor

## TERMS AND CONDITIONS OF SALE

Attached to and incorporated into the Credit Application

**1. Application.** These Terms and Conditions of Sale define the relationship of Quality Pipe Products, Inc. ("Quality Pipe") and Customer and apply to all sales of goods and materials ("Materials") by Quality Pipe to Customer. Customer acknowledges and agrees that these Terms and Conditions of Sale are incorporated in, and are a part of the Credit Application as well as each quotation, purchase order, invoice, release, requisition, work order, shipping instruction, specification, and any other document, whether expressed verbally, in written form or electronic commerce, relating to the sale of Materials by Quality Pipe to Customer (these documents are collectively referred to as the "Agreement").

**2. Quotation Expiration.** Written quotations are valid for a period of 5 days unless otherwise noted by Quality Pipe. Quality Pipe will have the right to withdraw any quote that has not been accepted by Customer within the 5-day time period.

**3. Pricing.** Prices for Materials and other related information shown in any Quality Pipe or manufacturer product publication, including but not limited to catalogs, brochures, and websites, are subject to change without notice. Prices do not include related freight charges, use tax, sales tax, excise tax, value-added tax, or similar taxes, or charges of any nature whatsoever imposed by any governmental authority unless otherwise expressly noted by Quality Pipe.

**4. Special Goods.** Due to the nature of producing special goods, overruns of up to 10% will be considered part of the quote and purchase order.

**5. Taxes.** Prices quoted do not include (and Customer shall pay) all taxes and fees of any kind that may be levied or imposed on either party by federal, state, municipal, or other governmental authorities in connection with the sale or delivery of the Materials by Quality Pipe with the exception of Quality Pipe's income tax obligations arising out of the sale of the Materials.

**6. Terms of Payment.** Unless otherwise specifically agreed in writing by Quality Pipe, the total price is due and payable to Quality Pipe, without setoff or other deductions or charges, net 30 days of Quality Pipe's invoice. Any amounts due by Customer to Quality Pipe that are unpaid on or after 30 days of Quality Pipe's invoice will bear interest at the rate of 2% per month or the maximum rate permitted by law, whichever is less. The accrual or payment of any interest as provided above will not constitute a waiver by Quality Pipe of any rights and remedies in connection with a default by Customer. Customer will pay all court costs, attorney fees, and other costs incurred by Quality Pipe in collecting past-due amounts, including interest. If shipment or delivery of Materials is delayed by or at the request of Customer, payment will remain due in full 30 days from the date of Quality Pipe's invoice. In such event, Quality Pipe may impose, and Customer shall pay, storage charges and other incidental expenses incurred by Quality Pipe as a result of the delay in addition to any interest on late payments as described above.

**7. Security Interest.** As security for payment of all amounts due to Quality Pipe, Customer grants to Quality Pipe a security interest in all Materials sold by Quality Pipe to Customer, and Quality Pipe shall have all rights of a secured party under the Uniform Commercial Code with respect to the Materials. Quality Pipe may at its option, take such actions as Quality Pipe deems reasonable in the circumstance to perfect the above security interest in any one or more jurisdictions.

**8. Limited Warranty—Disclaimer of Warranties.** The warranty obligations of Quality Pipe for Materials sold by Quality Pipe will in all respects conform and be limited to the warranty extended by the manufacturer of the Materials, if transferable. The sole remedy available to Customer with respect to defects in the Materials will be against the manufacturer under any applicable manufacturer's warranty to the extent available to Customer. TO THE EXTENT THE MANUFACTURER WARRANTY IS NOT TRANSFERABLE TO CUSTOMER, QUALITY PIPE MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO OR IN ANY WAY RELATING TO THE MATERIALS, WHETHER BASED ON BREACH OF WARRANTY OR CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

If Materials are resold by Customer, Customer will include in its agreement for resale provisions that limit recoveries in accordance with Agreement. In case of Customer's failure to include in any agreement for resale the terms providing for such limitations, Customer will indemnify and hold Quality Pipe harmless against any liability, loss, cost, damage, or expense (including reasonable attorney fees) arising out of or resulting from the failure.

IN NO EVENT SHALL QUALITY PIPE BE LIABLE OR RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR EXPENSE OCCASIONED BY THE USE OF DEFECTIVE MATERIALS.

CUSTOMER ASSUMES FULL RESPONSIBILITY THAT THE MATERIALS PURCHASED UNDER THE AGREEMENT MEETS THE SPECIFICATIONS AND/OR INTENDED USE OF CUSTOMER, AND QUALITY PIPE MAKES NO REPRESENTATION WITH RESPECT TO THEM.

IN NO EVENT SHALL QUALITY PIPE'S LIABILITY TO CUSTOMER AND/OR ITS CUSTOMERS EXCEED THE PRICE PAID BY CUSTOMER FOR THE SPECIFIC GOODS OR PORTION OF THE GOODS PROVIDED BY QUALITY PIPE GIVING RISE TO THE CLAIM OR CAUSE OF ACTION, AND CUSTOMER SHALL INDEMNIFY QUALITY PIPE FOR ANY DAMAGES IN EXCESS THEREOF.

**9. Delivery.** Any delivery dates or other schedule of performance by Quality Pipe are approximations, and the sole obligation of Quality Pipe with respect to the schedule of delivery or performance will be to use commercially reasonable efforts to deliver the Materials, or otherwise to perform, consistent with the reasonable demands of its business. In any event, Quality Pipe shall have no liability to Customer or any other person for delays in performance due to strikes or labor disputes of any type; accidents, fire, floods, acts of God, or actions by governmental authorities; acts, omissions, or delays of Customer or any other third party; shortages of labor; or without limitation of the above, for any causes reasonably beyond the control of Quality Pipe.



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**10. Title and Risk of Loss.** Title to and risk of loss or damage to the Materials will pass to Customer on delivery by Quality Pipe F.O.B. (a) Quality Pipe's facility, (b) Quality Pipe's supplier's facility when Materials shipped directly from the manufacturer, or (c) as otherwise specifically indicated in Agreement.

**11. Inspection and Acceptance.** Customer will have 5 days from the date of delivery to inspect the Materials for defects and nonconformance and to notify. Quality Pipe, in writing, of any defects, nonconformance, or rejection of the Materials (other than defects or nonconformities due to damage, shortage, or errors in shipping that will be reported as set forth below). Claims for shipping damage, errors, or shortages must be made in writing to Quality Pipe not more than 10 days after receipt of shipment. After this period, Customer will be deemed to have irrevocably accepted the Materials, if not previously accepted. After acceptance, Customer shall have no right to reject the Materials for any reason or revoke acceptance. Claims for freight damage noted by Customer to the carrier at the time of receipt, due to shipping resulting in damaged material and/or shortages only for freight paid by Quality Pipe may be submitted by Customer to Quality Pipe for resolution with the carrier. Quality Pipe will not recognize any claims for any cause after the Materials have been treated, processed, or changed in any manner (except for reasonable test quantities). It is Customers responsibility to determine whether the Materials are suitable for its contemplated use whether or not such use is known to Quality Pipe.

**12. Return of Materials.** All returns will be pursuant to Quality Pipe's instructions. Customer must contact Quality Pipe and obtain an RMA (Returned Materials Authorization) before returning any Materials. All returns must reference the original invoice number, the RMA and the reason for return. No warranty returns of normal stock products that are unused and are in resalable condition will be subject to Quality Pipe's return policies in effect at the time, including applicable restocking and transportation charges and other conditions of return.

**13. Cancellation or Termination.** In the event of cancellation of a purchase order by Customer, Customer shall pay to Quality Pipe on demand all direct and indirect costs (including, without limitation, all applicable restocking or cancellation charges, including reimbursement for direct costs assessed by the manufacturer) incurred directly or indirectly by Quality Pipe in connection with the purchase order, all as reasonably determined by Quality Pipe. Purchase orders for **special goods** cannot be cancelled after work is started. In no event, however, will any amount payable by Customer exceed the total price payable by Customer for the Materials.

**14. Changes.** Quality Pipe reserves the right from time to time to correct any typographical or clerical errors, including errors in mathematical computation, which may exist in this Agreement.

**15. Modifications and Waiver—Entire Agreement.** Neither party has any rights, warranties, or conditions expressed or implied, statutory or otherwise, other than those contained in Agreement. No waiver of any provision of Agreement will be binding unless in writing signed by an authorized representative of the party against whom the waiver is asserted, and unless expressly made generally applicable, will apply only to the specific case for which the waiver is given. Failure of either party to insist on strict performance of Agreement will not be construed as a waiver of any term or condition of Agreement. Any document submitted by Customer to Quality Pipe confirming its intention to purchase Materials described in the Agreement (purchase orders or releases) will be deemed to constitute a confirmation and acceptance of the Agreement, even if the document states terms in addition to or different from those in the Agreement. All agreements between Quality Pipe and Customer will be solely under the terms and conditions of the Agreement and these Terms and Conditions of Sale, and Quality Pipe objects to any and all additional or different terms contained in any document submitted to Quality Pipe by Customer. Any execution by Quality Pipe of any other document submitted by Customer in connection with the purchase of Materials does not constitute acceptance of or agreement to any terms and conditions in addition to or different from those contained in the Agreement and these Terms and Conditions, but will constitute only acknowledgment of receipt of the document. In addition, notwithstanding any terms contained in any documents submitted by Customer in connection with the purchase of Materials described under the Agreement, the acceptance of delivery by Customer of Materials described in the Agreement will constitute a course of conduct constituting Customer's agreement to the terms and conditions of the Agreement and these Terms and Conditions of Sale, to the exclusion of any additional or different terms and conditions.

**16. Compliance with Laws.** Customer will be responsible for compliance with any and all federal, state, or local laws or regulations respecting safety or respecting use of the Materials and shall indemnify and hold Quality Pipe harmless from and against any and all claims of violations of laws or regulations or other claims of personal injury or property damage directly or indirectly related to the installation, maintenance, or operation of the Materials.

**17. Governing Law and Jurisdiction.** The Agreement will be governed by and construed in accordance with the laws of the State of Michigan, without regard to choice or conflict of laws rules. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO MAY BE BROUGHT IN THE COURTS OF THE STATE OF MICHIGAN, COUNTY OF WAYNE OR ANY COURT OF THE UNITED STATES OF AMERICA FOR THE EASTERN DISTRICT OF MICHIGAN, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HEREBY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF SUCH COURTS. THE PARTIES IRREVOCABLY WAIVE ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH ANY OF THEM MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS.

**18. Authority.** Each signatory represents that it has all requisite authority to execute the Agreement on behalf of its principal and that the Agreement is fully enforceable against the principal in accordance with its terms.