

TERMS AND CONDITIONS OF SALES

1. **Terms:** The terms set forth on this page supersede any contrary provision presented by Buyer in any written form or otherwise and may NOT be changed in any manner other than in writing signed by an authorized representative of Tioga Pipe, Inc. (hereinafter "Tioga"). To the extent that any quotation, offer to sell, or sale constitutes an acceptance by Tioga of an offer to Buyer, the acceptance is expressly conditioned on Buyer's assent to the terms and conditions herein which are additional or different to those presented by Buyer. To the extent that any portion of any quotation, offer to sell, or sale constitutes an offer, acceptance is expressly limited to the terms of the offer.

2. **Price, Terms and Payment:** Except as otherwise expressly provided, prices are subject to change at any time without notice and are payable in full within thirty (30) days after date of the applicable invoice. All prices and payment terms are subject to credit approval by Tioga. Tioga shall have no obligation to make any shipment if Buyer is overdue on any payments due from Buyer to Tioga, whether under these Terms and Conditions or otherwise, and Tioga may pursue any and all remedies available to it. Buyer agrees to pay any costs, or any expenses, including reasonable attorney's fees, incurred by Tioga in the collection of sum payable by Buyer to Tioga. Any overdue payments shall accrue interest at the lesser of 1.5% per month or the maximum interest rate permitted by applicable law.

3. **Delivery:** Tioga will use its best efforts to meet all delivery and shipping dates set forth, but all such dates constitute good faith estimates only. Tioga will not be liable or responsible for failure to meet any specific delivery or shipping date, so long as it acts in good faith. Except as otherwise expressly provided, all shipping, delivery, and price terms are F.O.B. point of shipment.

4. **Warranty and Disclaimer:**

A: Tioga warrants to Buyer, that the goods covered by any quotation offer to sell, or sale will, at the time of delivery, be free from material defects, defects in workmanship and will conform, in all respects, to any specifications provided by Tioga or provided by Buyer and approved in writing by Tioga.

Tioga's responsibility under the warranty shall be, at its own option and expense, to repair, replace, or give full credit for any goods which do not conform to the warranty. Tioga shall have no responsibility, and the warranty shall not apply, to any asserted defect, or breach of warranty if the defect is caused by the negligence or intentional misconduct of Buyer or any Party acting for, or on behalf of Buyer if Buyer fails to give Tioga written notice of the defect or breach within 30 days after receipt of the goods.

B: EXCEPT AS EXPRESSLY PROVIDED IN SUBPARAGRAPH A, TIOGA MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE GOODS COVERED BY ANY QUOTATION, OFFER TO SELL, OR SALE. ALL EXPRESSED OR IMPLIED WARRANTIES NOT EXPRESSLY STATED IN SUBPARAGRAPH A, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE HERBY DISCLAIMED.

5. Limitation of Remedy: Buyer's sole and exclusive remedy, (excluding the repair, replacement or full credit remedy for breach of warranty under Paragraph 4), for any matter, or claim arising, under or relating to any quotation, offer to sell, or sale of goods covered hereby, and any transaction, involving or relating to such goods, whether in contract, or tort (including negligence) or otherwise, shall be general money damages not in excess of the lesser of the actual direct damage to Buyer, or the purchase price of the goods to which the claim relates. **IN NO EVENT WILL TIOGA BE LIABLE FOR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF TIOGA WAS ADVISED OR AWARE OF THE POSSIBILITIES OF SUCH DAMAGES.**

6. Other. In the event there is a material cost increase for any line item after placement of any order/line item with Seller due to factors outside the control of the Seller (for example, but not limited to, changes in the tax law, duty, import restrictions, US Presidential executive order, government regulation, etc.), then the price of the Goods shall increase by the amount of the increase for the Goods effected. Seller shall notify Buyer of such increase and Buyer shall within three (3) business days have the option, exercisable in writing only, of cancelling the order. If a written response is not received after the three (3) day period, then both Seller and Buyer do hereby agree that the increased price shall go into effect. In the case of a cancellation, both parties agree that any and all claims, damages, recoveries or losses against the other party in regards to this price increase are hereby waived.

7. Buyer Not an Agent: Buyer has no authority to act on our behalf or as our agent for resale of the goods.

8. Force Majeure: Tioga shall not be liable or responsible, in any manner for delays in performance for causes beyond Tioga's reasonable control. In the event of a delay for such a cause, all delivery and other deadlines shall be deemed extended for the period of the delay; except that, if the delay extends for more than three (3) months, either party may terminate the applicable transaction by written notice to the other.

9. Returned Goods & Cancellation of Orders: Some Goods are non-cancelable. Cancelable Goods cannot be returned for credit without authorization. Returned Goods may be subject to restocking fees, transportation costs and other costs. Any Goods authorized for return must be in the same condition as they were immediately prior to shipment.

10. Applicable Law: Pennsylvania Law shall govern the validity, construction, interpretation, and effects of any quotation, offer to sell, or sale, and the transaction for the goods described herein. The parties hereto consent to the jurisdiction of the Court of Common Pleas in Philadelphia County in any and all actions or the United States District Court for the Eastern District of Pennsylvania or any other court in Philadelphia County in any and all actions, and proceedings arising under these Terms and Conditions, and waive the right to object that that venue or forum is improper or inconvenient.