

TERMS AND CONDITIONS

1. **AGREEMENT.** The contract of sale (the "Contract") resulting from the documentation on the reverse side hereof together with these Terms and Conditions constitutes the entire agreement between the parties hereto, except as modified in writing signed by both Seller and Buyer and there are no other agreements, representations, promises, or statements either expressed or implied, between the Seller and Buyer. If Buyer shall issue or has issued a document of its own, the terms, conditions, and provisions of this Contract shall supersede the Terms and Conditions of Buyer's documents. The Seller is Vianini Pipe, Inc. and the Buyers is identified in contract.
2. **PROPOSAL OR QUOTATION.** A proposal shall not become binding upon Seller until it has been accepted by Buyer and has been approved and accepted by Seller as provided in Section 2. A quotation shall not be considered as an offer from Buyer which is subject to acceptance by Seller as provided in Section 3.
3. **ACCEPTANCE AND APPROVAL.** A proposal accepted by Buyer and/or an order by Buyer will become binding on Seller only when accepted and approved by the Sales and Credit Department of Seller.
4. **CREDIT.** Credit terms of payment must have the approval of Seller's Credit Department and must be specified in writing on Seller's invoice or on this Contract. If at any time Buyer's financial responsibility becomes impaired or unsatisfactory to Seller, Seller reserves the right to stop shipment on notification to Buyer, the project owner, and the Buyers surety with a demand for payment in advance or at time of delivery for future deliveries, or to require other security satisfactory to Seller, and in the absence thereof, to cancel the unfilled portion of the Contract. Seller will notify the Buyer promptly of its decision to stop shipments and give an advice notice to the extend this is possible. In the absence of credit terms, sales are for cash.
5. **PAYMENT.** Specific terms of payment for this order shall be set forth in the Contract on the reverse side of this document or identified and appended hereto. Buyer agrees to make payment at Seller's location specified in this Contract in lawful money of the United States. Buyer further agrees to make all payments when due to Seller in accordance with the agreed terms of payment in this Contract, without reference to Buyer's agreement with or payments by the owner and with no right retention. If outstanding finance charges exist, payment will be first applied to such amount. In addition, in absence of any indication, payments will be applied to the oldest outstanding invoices by amount.
6. **INTEREST AND COST.** Buyer agrees to pay interest at 1 ½% per month (to the extent permitted by law) on all delinquent balances which are at least sixty (60) days old. If Seller shall place Buyer's account in the hands of an attorney for collection after default, Buyer shall pay for seller's attorney's fees, costs, and expenses.
7. **TAXES.** Any Federal, state, or local tax, assessment, fee, duty, or charge hereafter imposed on or measured by this purchase shall be for Buyer's account unless Buyers furnished Seller an acceptable exemption certificate from such tax assessment, fee duty, charge prior to shipment.
8. **CANCELLATION.** If Buyer desires to cancel or change any portion of this order, he must make such requesting writing to Seller. Seller may, in its sole discretion, accept or reject any such request. If Seller shall accept such request, Buyer nonetheless must take delivery and make payment to Seller for all material manufactured and in stock or in process of manufacture at the time of notice and for all special materials ordered at time of notice and for which Seller must take delivery unless otherwise agreed by the Seller in writing. All such materials must be removed from Seller's premises within thirty (30) days after payment and payment will be due at time of notice.
9. **INSPECTION AND TESTING.** All charges for inspection or tests not furnished regularly are for Buyer's account and subject to prior negotiation. All inspections shall be conducted at Seller's plant, and failure of Buyer to avail himself of inspection shall deem a waiver of such privileges.
10. **QUANTITIES.** Quantities, types and sizes of product proposed, shipped, and billed are approximate and are not guaranteed to be correct. Pipe and fittings proposed and furnished are based on Seller's "take off" of the owner's plans and are not to be relied upon. Any changes for any reason are Buyer's responsibility.
11. **PRICES.** Prices quoted or proposed are firm prices only if signed purchase order accepting Seller's proposal or an accepted proposal received by Seller from Buyer within thirty (30) days after the date of the quotation or proposal. Otherwise, all prices are subject to review, revision, and escalation
12. **ACCESORY PRODUCTS.** Gaskets and diaphragms can be furnished at standard list prices. All other joint materials are Purchaser's account. Flange gaskets, bolts, nuts, cast iron fittings, couplings, valves or any other fittings, are not included in this proposal excepted as specifically listed in the order.
13. **FORCE MAJEURE.** Seller shall not be responsible or liable for any delays or nonperformance in the event of fire, flood, explosion, the elements, or other catastrophe, acts of God, war, riot, civil disturbance, strike, lockout, refusal of employees to work, labor disputes, shortage or inability to obtain raw materials (including energy requirements), or failure of carriers to deliver either

machinery, equipment, or material; in the event any legislative, executive, or judicial act of any political or governmental authority substantially affects Seller's operations, in the event Seller suspends or discontinues business for any reason beyond control of Seller.

14. **DELAYS.** Seller shall be reimbursed by Buyer for all expenses incurred by Seller for reason of delays caused by the action or inaction of Buyer including, but not limited to, Buyer's not furnishing necessary documents, approvals, or information needed by Seller, not promptly loading or unloading shipments, and not taking delivery as requested requiring additional handling and costs in connection with product beyond the date Buyer originally requested manufacture and/or delivery.
15. **SHIPMENT.** Seller shall have a reasonable time for the beginning of delivery. Seller will select the method of shipment and routing and Buyer will unload shipment, unless otherwise provided in the proposal. Any additional charge due to delay in unloading, switching, demurrage, diversion, or reconsignment of shipment will be for the account of Buyer. Truck shipment will be delivered to the job site of the nearest point where accessible to tractor trailer trucks operating under their own power. Buyer shall be responsible for damages to the trucking equipment or its load caused by pulling or pushing of tractor-trailer trucks by other equipment. The construction and maintenance of access road shall be done by Buyer for its account.
16. **TITLE.** Title to product transfers upon delivery to Buyer at the F.O.B. point of delivery, which will be clearly set forth in the shipment terms of this Contract. On receipt of title, Buyer is then responsible for proper protection of product, lighting, placement, and compliance with all regulations and ordinances, and shall indemnify Seller against all claims for personal injuries or property damage arising from the storage, use, or handling of such products.
17. **IN-TRANSIT CLAIMS.** Claims for damage and shortage in transit must be made against the carrier by the owner of the shipment according to F.O.B. terms of the Contract. Buyer has the responsibility to inspect shipments before or during unloading to identify any such damage or shortage and see that appropriate notation is made on the delivery tickets or an inspection report furnished by the local agent of the carrier in order to support any claim.
18. **CLAIMS.** Notice of claims against Seller hereunder for any reason, including breach of warranty, must be made to Seller in writing within forty-eight (48) hours of discovery to afford Seller an opportunity to make a prompt investigation of surrounding facts and mitigate any damages which might ensue, should it be determined to be Seller's responsibility. Failure to give such notice to Seller shall constitute a waiver by Buyer of any right later to assert such claim.
19. **RETURNS.** Returned goods shall be accepted for credit only if in saleable condition and only with evidence of Seller's prior written consent. All costs of return shall be borne by Buyer and Seller shall have the right to deduct all loading and unloading costs, any costs of repair, and delivery costs to and from Buyer's job location that were paid by Seller. Special items of other than normal and standard design regularly sold by Seller cannot be returned.
20. **WARRANTY.** Seller warrants title to each individual product and further warrants that product sold under this contract conforms to the specifications set forth in the contract, and Seller warrants any product furnished hereunder against defects in material and workmanship under the normal service and use for which it was designed for a period of one (1) year after shipment. SELLER ACCEPTS NO RESPONSIBILITY FOR DESIGN OF THE PROJECT OR INSTALLATION OF THE MATERIALS DELIVERED. ANY DEFECTS IN PROJECT DESIGN OR INSTALLATION OF MATERIAL VOIDS ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, EXCEPT WARRANTY OF TITLE. Seller's obligation under this warranty is limited to furnishing or repairing any product determined by Seller to be defective and to the purchase price of any products determined not to conform to the specifications set forth in the Contract, and in no event shall Seller be responsible or liable for any work done or expense or liability incurred by Buyer, including, but not limited to costs, lost profits, or good will of Buyer or any other general, special, or consequential damages whatsoever. The products furnished hereunder shall be conclusively presumed to have conformed to all applicable specifications in the event they have been inspected by governmental authorities and not rejected prior to final installation. SELLER MAKES NO WARRANTY OF FITNESS OR MERCHANTABILITY AND NO OTHER WARRANTY, WHETHER EXPRESSED OR ARISING BY OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE, OR OTHERWISE IMPLIED, this warranty. Seller's warranty extends only to the first Buyer of product from Seller or Seller's authorized distributor. All Goods not manufactured by Seller are warranted only to the extent of the warranties of the original manufacturer.
21. **LAW.** This Contract shall be governed and shall be construed by the substantive law of the State of New Jersey, excluding such law as shall relate to conflict of laws.