



STANDARD TERMS AND CONDITIONS OF SALE

1. ENTIRE AGREEMENT. Sale of any product or service is conditioned upon Buyer's agreement to the terms contained herein ("Terms") and also those additional terms shown on any proposal, quotation or order acknowledgment (collectively "Proposal") issued by Custom Pipe & Fabrication, Inc. ("Seller"). Seller hereby objects to and rejects any inconsistent, additional or different terms in any existing or future purchase order, instruction or other statement issued by Buyer. No modification, amendment or waiver to these Terms and no cancellation, change or modification of any order accepted by Seller will be binding on Seller until accepted, in writing, by Seller's authorized representative. An "authorized representative" of Seller shall mean any Officer, Director or other representative of Seller duly designated and evidenced by written certificate ("Authorized Representative").

2. PRICES. All prices are subject to change without notice and all material offered is subject to prior sale. Prices do not include any taxes and, where applicable, such taxes shall be invoiced as a separate item and paid by the Buyer.

3. SHIPPING TERMS. All sales are made FOB point of shipment. In all cases, title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damage shall be upon Buyer. All Prices and items shown as "freight allowed" pertain to particular items and quantities. Any changes after Seller's acceptance of Buyer's order are subject to a price increase, additional freight charges, revision of delivery date and/or changes as the result of a change in the manufacturer's terms and conditions. Seller may, at its option, make partial shipments and invoice Buyer for such partial shipments. Unless a particular length is clearly specified, all lengths, weights and dimensions are approximate. All labor or mechanical facilities required to unload shall be provided by Buyer without any cost to Seller.

4. BUYER SPECIFICATIONS AND DRAWINGS.

(a) Buyer Specifications. If products are made to a specification, instruction or advertisement supplied by Buyer or any third party on behalf of Buyer (collectively "Specifications"), then the suitability and accuracy of the Specifications shall be Buyer's responsibility. Seller reserves the right to amend any Specifications, upon written notice to Buyer, to the extent that a change, revision or modification is required by any applicable law or good manufacturing practices. Buyer shall take reasonable measures to ensure that all necessary permissions or consents (including those of third parties) are obtained in order to permit Seller to supply the products in accordance with the relevant Specifications. Buyer shall indemnify Seller against: (i) all infringement or alleged infringement of any third party's intellectual property rights and any loss, damages or expense which it may incur by reason of any such infringements or alleged infringement; and (ii) any loss, damage or expense in respect of any liability arising from or related to Seller's manufacture, fabrication or assembly of any products in accordance with Buyer's Specifications.

(b) Drawings. If assembly or product drawings are furnished by Seller as part of the Proposal ("Drawings"), such Drawings are diagrammatic and are submitted as an accommodation to Buyer only to show the general style, arrangement and approximate dimensions of the products offered.

No work is to be based upon these Drawings. If the Proposal specifies that Seller shall certify any Drawings, such drawings will be furnished after Seller's acceptance of Buyer's order. Buyer acknowledges that Buyer is obligated to, and shall have, all Drawings reviewed and approved by an independent, licensed engineer.

5. DELIVERY. Factory shipping dates given in advance of actual shipment are estimates and shall not be deemed to represent fixed or guaranteed shipping dates. Seller shall not be liable for failure to deliver or for delay in delivery or performance due to a cause beyond Seller's reasonable control, including (a) acts of God; (b) an act or omission of Buyer; (c) an act of civil or military authority, governmental priority or other allocation or control; (d) fire; (e) inclement weather; (f) strike or labor difficulty; (g) riot or other civil disturbance; (h) insolvency or other inability to perform by the manufacturer providing the products offered; (i) epidemic or pandemic; or (j) delay in transportation or any other commercial impracticability (collectively "Force Majeure Event"). In the event of any Force Majeure Event, the date for delivery or performance shall be extended for a period of time equal to the time lost by reason of such delay. If Buyer requests to postpone the delivery time for products which are ready for shipment, Seller reserves the right to invoice Buyer for such products and charge warehouse and/or storage fees until shipment is made. Seller will not accept charges for loss or damage in transit but will assist Buyer in preparing claims against shipping companies. Buyer shall make written note of any apparent or perceived damage when signing freight receipts. All claims for damage in shipment must be made within five (5) days of receipt.

6. PAYMENT AND FINANCIAL CONDITION.

(a) Payment. All invoices from Seller are due and payable Net thirty (30) days," unless otherwise expressly agreed to in writing by Seller's Authorized Representative. Payment to Buyer from Buyer's customers, if any, shall not be a condition precedent to Buyer's obligation to make payment to Seller. Retention is not allowed. If payment is not made when due, Buyer agrees to pay a service charge on the amount past due at the rate of one and one-half percent (1.5%) per month [eighteen percent (18%) per annum] or the maximum amount allowed by applicable law, whichever is less. Nothing herein shall be deemed to extend or otherwise modify Buyer's obligation to make payment when due.

(b) Financial Condition. Any order or request by Buyer shall constitute a representation that Buyer is solvent. If, in Seller's reasonable discretion and consistent with commercial standards, Seller believes that Buyer's financial condition at the time of manufacture or shipment does not justify the terms of payment specified, Seller reserves the right to require full or partial payment from Buyer or to request in writing other adequate assurance of performance before manufacture or shipment. Seller reserves the right to suspend its performance until such payment or adequate assurance of performance has been received. Seller may suspend manufacture or shipment of any products for which Seller has not received payment if Buyer is in default under any order or other contract of sale between Seller and Buyer. Any costs incurred by Seller as a result of suspending or interrupting performance shall be paid by Buyer.

(c) Attorneys' Fees. In the event of legal action or dispute regarding the Proposal, these Terms, the goods or the Services (as hereinafter defined) provided by Seller or payment, Buyer agrees to pay Seller's actual attorneys' fees, if any, and all costs incurred by Seller in the collection of any monies due from Buyer.

7. LIMITED WARRANTIES.

(a) Pump Products Manufactured or Assembled by Seller. Seller warrants that pump products manufactured or assembled by Seller will be free from defects in material and workmanship for ninety (90) days from date of installation or one hundred and eighty (180) days from date of shipment, whichever is shorter. **Pump assemblies should be installed and operated promptly. Buyer is solely responsible for the proper installation and operation of all pump assemblies. Storage of the pump assembly for thirty (30) days or more prior to installation and operation requires rotation of the shaft one and one-quarter (1 1/4) turn at least one (1) time every thirty (30) days. Any warranty request must include proper documentation showing the installation and operation of the pump assembly. Moreover, if Buyer stored the pump assembly for thirty (30) days or more prior to installation and operation, Buyer must also submit with any warranty request proper documentation showing rotation of the shaft. Buyer acknowledges that compliance with, and providing documentation of, the installation, operation, and storage processes outlined above is a condition precedent to any warranty coverage under this section.**

(b) Waterworks Products Manufactured by Seller. Seller warrants that fabricated ductile iron products manufactured or processed by Seller will be free from defects in material and workmanship for one (1) year from the date of shipment.

(c) Products Manufactured by Others. Products distributed by Seller (whether sold separately or incorporated into another product) are the products of reputable manufacturers. Seller shall use reasonable commercial efforts to obtain, from each manufacturer, the manufacturer's warranty (copies of which will be furnished upon written request) or customary practice for the repair or replacement of products that may prove defective in material or workmanship. Except as to title, Seller makes no warranties with respect to these products and Seller's only obligation with respect to products manufactured by others is to present Buyer's claim to the manufacturer. Buyer agrees that the liability of Seller shall not exceed any adjustment offered or accepted by the manufacturer.

(d) Service and Repair Work. Seller warrants that systems or components that are repaired or serviced by Seller (collectively "Services") shall be free from defects in material and workmanship for ninety (90) days from the completion of the Services. In relation to Services only, if notice is timely provided as set forth in subdivision (f) below, Seller shall re-perform (or pay reasonable costs for the re-performance of) the Services which Seller's examination confirms are defective. Buyer shall provide Seller with adequate time and opportunity within which to re-perform any part of the defective Services and Buyer shall take all appropriate steps to mitigate damages caused by any perceived defective Services.

(e) Warranty Limitations and Exclusions. Seller's sole obligation and Buyer's exclusive remedy in connection with any products manufactured or assembled by Seller shall be limited, at Seller's option, to either replacement of any products not conforming to the foregoing warranties or the issuance of a credit to Buyer's account for the invoiced amount of the nonconforming products. Seller shall not be liable for any defective products or Services, which would otherwise be covered by the aforementioned warranties, if: (i) such defect arises from Buyer's failure to follow any instructions for the use or maintenance of the products or Services, whether set out in the Proposal or any literature or document published by Seller or the manufacturer; (ii) such defect arises from Buyer's failure to follow good trade or industry practice; (iii) such defect is the result of Seller following Buyer's Specifications; (iv) Buyer or a third party alters or repairs the product or the subject of the Services; (v) the defect or failure is due to circumstances which existed in parts or components connected to the product or Services

provided by Seller; (vi) the product or the subject of the Services has been improperly used or damaged by Buyer or a third party; or (vii) Buyer prevents Seller from remedying the defect.

(f) Notification of Defect. Any claim under the foregoing Limited Warranties must be made by Buyer to Seller in writing within five (5) days of: (i) Buyer's receipt of any product containing a patent or obvious defect, and (ii) Buyer's discovery of any claimed latent defect, but in no event later than one (1) year from the shipment. In relation to Services, Buyer's failure to provide written notice to Seller of any perceived issue or problem with the Services within the ninety (90) day period mentioned in subdivision (d) above will result in a waiver of Buyer's right to make a claim thereunder and Buyer's failure to notify Seller of such claim as required herein shall bar Buyer from any recovery under this Limited Warranty.

(g) Disclaimer of Warranties. THERE ARE NO OTHER WARRANTIES, EITHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, RELATING TO THE PRODUCTS OR SELLER'S SERVICES. **NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY.** The foregoing disclaimer of all other warranties applies to any and all products manufactured or assembled by Seller, including any products which are manufactured or processed pursuant to Buyer's Specifications or in conjunction with Drawings furnished by Seller as described in Paragraph 4.

8. CLAIMS. Within five (5) days after receipt of products, Buyer shall notify Seller in writing of any claim for apparent non-conformity, shortages, errors in shipment or errors in charges. Failure to do so shall constitute conclusive evidence that Seller has satisfactorily performed and that Buyer has accepted the products and waived any right to reject the products. Products may be returned only upon Seller's prior written authorization. Acceptance of any products for return shall be at Seller's sole discretion. Seller's liability is limited to replacing non-conforming products or to allow credit to the extent of the invoice amount of such products at Seller's option. Buyer may not offset payment to Seller for claims or returned products until Seller has issued a credit to Buyer, nor may such payment offset exceed the invoice amount of such products. Seller shall be given reasonable opportunity and access to investigate the merits of any claim made by Buyer.

9. LIMITATION OF LIABILITY.

(a) Subject to limitations on warranty and other claims set forth herein, Seller's liability on any claim for loss or damage arising out of any sale of any product or service or from performance or breach of any agreement, or connected with the resale, operation or use of any product, whether based on contract, warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such products or part thereof involved in the claim. **IN NO EVENT SHALL SELLER BE LIABLE, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHER GROUNDS FOR LABOR CHARGES, "IN AND OUT" CHARGES, SPECIAL, CONSEQUENTIAL, INCIDENTAL, LIQUIDATED OR PENAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED PRODUCT, COST OF CAPITAL, COST OF SUBSTITUTE PRODUCTS, FACILITIES OR SERVICES, DOWNTIME COSTS, DELAY DAMAGES OR CLAIMS OF BUYER'S CUSTOMERS FOR SUCH DAMAGES.**

(b) If Seller furnished Buyer with advice or other assistance (including Drawings) concerning any products supplied by Seller or any system or equipment in which any such products may be installed, and such advice or assistance is not specifically required pursuant to the Proposal, such advice or assistance will not subject Seller to any liability to Buyer or any third-party, whether based on contract,

warranty, tort (including negligence) or other grounds and Buyer shall indemnify, defend and hold Seller harmless from such claims. Buyer acknowledges that any such advice or assistance, and any communications and representations related thereto, shall not be construed as warranties or guarantees of any kind, express or implied, unless such representations are made by Seller's Authorized Representative and expressly set forth herein.

10. HAZARDOUS BUSINESS. Unless otherwise agreed to in writing by an Authorized Representative of Seller, products sold hereunder are not intended for use in connection with any hazardous activity or any other critical application where failure of a single component could cause substantial harm to persons or property. If so used, Seller disclaims all liability for any damage, contamination or other injury and Buyer shall indemnify and hold Seller harmless from such liability, whether as a result of breach of contract, warranty, tort (including negligence) or other grounds.

11. IMPROPER ACT OF BUYER. Buyer shall indemnify, defend, and hold Seller harmless from any claim, liability, damages lawsuits and costs (including attorneys' fees), whether for personal injury, property damage or other, brought by or incurred by Buyer, Buyer's employees, Seller's employees, or any other person, arising out of improper selection, improper application or other misuse of products purchased from Seller, or failure to follow any application, instructions, installation, or safety directions provided by Seller or product manufacturer.

12. CANCELLATION AND RETURNED PRODUCTS. Orders may be cancelled or returned only upon Seller's prior written authorization. Acceptance of said cancellation or return is at Seller's sole discretion. Buyer is required to pay Seller all cancellation or return charges and any costs, expenses or loss incurred by Seller as result of said cancellation or return. In the event of cancellation and/or return without Seller's consent, Seller shall be entitled to recover any and all damages as the result of Buyer's cancellation and/or return. ALL SPECIAL ORDER MATERIALS AND PROCESSED MATERIALS AND FABRICATED MATERIALS ARE NONCANCELABLE AND NONRETURNABLE.

13. ASSIGNMENT. The assignment by Buyer of any or all of its duties or rights hereunder, without the prior written consent of Seller, shall be void.

14. INTELLECTUAL PROPERTY RIGHTS. Unless otherwise agreed to in writing by Seller, any intellectual property rights in any products, tooling and drawings or other documentation supplied or produced by Seller shall be the sole and exclusive property of Seller and shall remain vested in Seller. Buyer agrees to execute any documents Seller deems necessary to confirm Seller's intellectual property rights. Buyer shall not use, replicate or repurpose any of Seller's intellectual property, proprietary information or designs, or any portion thereof, for any purpose.

15. MODIFICATION; WAIVER. All orders are subject to acceptance by an Authorized Representative of Seller. No waiver, alteration or modification of any of these Terms shall be binding upon Seller unless specifically agreed to in writing by an Authorized Representative of Seller. Buyer hereby acknowledges that the failure of Seller to approve any waiver, alteration or modification proposed by Buyer shall constitute a rejection of said waiver, alteration or modification and the provisions in the Proposal and these Terms, as stated herein, shall be given full force and effect. Waiver by Seller of any breach of any provision herein shall not be considered a waiver of any other or future breach of the same or any other provision.

16. EFFECT OF INVALIDITY. If any of these Terms is deemed by a court of competent jurisdiction to be invalid, unenforceable or illegal and the provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to

make it legal, valid and enforceable, and the remainder of these Terms shall not be affected thereby and shall remain in full force and effect.

17. NOTICE. Any notice or other communication given to a party under or in connection with a Proposal or these Terms shall be in writing, addressed to the party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may specify in writing, and shall be delivered personally or sent by: (a) Express Mail, return receipt requested, or (b) recognized overnight delivery service that provides confirmation of delivery as part of the carrier's next working day delivery service.

18. APPLICABLE LAW. The validity, performance, and all matters relating to the interpretation and effect of the Proposal or any agreement based on the Proposal shall be governed by the laws of the State of California.

19. DISPUTE RESOLUTION; ARBITRATION. In the event of any controversy or claim arising out of or relating to the Proposal, or a breach thereof, the parties hereto shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a satisfactory solution. If the parties do not reach settlement within a period of sixty (60) days following a written request to meet and confer concerning a dispute, then, upon notice by any party to the other party(s), any unresolved controversy or claim shall be submitted to arbitration administered by the American Arbitration Association in accordance with its current Commercial Arbitration Rules. The demand for arbitration may be served at any time following the earlier of: (a) a party's refusal to meet and confer; (b) the conclusion of the meet and confer process; or (c) the expiration of sixty (60) days following the written request to meet and confer. The arbitration hearings shall be conducted before a single arbitrator, in Los Angeles, California. The arbitration award may be confirmed and enforced by any court having jurisdiction over the award debtor.

20. ENTIRE AGREEMENT. Unless agreed to in writing by Seller's authorized Representative, the Proposal, these Terms and Seller's invoices to Buyer contain any and all understandings, agreements or covenants by and between Seller and Buyer pertaining to the products and Services described therein or thereon and exclusively determines the rights and obligations of the parties hereto. Any representation, affirmation of fact and course of dealings, promise or condition made in connection with a Proposal or an order from Buyer, or any usage or trade not incorporated into the above-described documents, shall not be binding on either party.