

VYLON PIPE
23240 CHAGRIN BLVD. SUITE 405, CLEVELAND, OHIO 44122
TERMS AND CONDITIONS OF SALE

1. ENTIRE AGREEMENT. The provisions on the face hereof and these Terms and Conditions of Sale constitute the entire agreement between Vylon Pipe and Buyer and supersede Buyer's purchase order and all other communications between the parties, whether written or oral. No purported modification or rescission of this agreement shall be binding on Vylon Pipe for any purpose unless contained in writing signed by an authorized representative of Vylon Pipe.
2. PRICES. The products listed hereon shall be invoiced to Buyer at Vylon Pipe's prices in effect at the time of shipment.
3. LIMITED WARRANTY/DEFECTIVE PRODUCTS/SHORT COUNTS. Vylon Pipe warrants to Buyer that its products conform to all product specification contained in the contract of sale, and using Vylon Pipe's product specifications as a standard, are free from defects in material and manufacture as of the date they are shipped by Vylon Pipe. This warranty is extended to Buyer only.

IF BUYER BELIEVES THAT IT HAS DISCOVERED A DEFECT IN MATERIAL OR MANUFACTURE IN ANY PRODUCT COVERED BY THIS WARRANTY, OR IF BUYER DISCOVERS A SHORT COUNT IN ANY SHIPMENT BY VYLON PIPE, BUYER MUST NOTIFY VYLON PIPE IN WRITING, WITHIN 60 DAYS OF RECEIPT OF THE GOODS TO WHICH THE CLAIM RELATES OR IN ANY EVENT WITHIN 70 DAYS OF THE DATE THAT THE GOODS WERE SHIPPED BY VYLON PIPE. Vylon Pipe will provide goods to meet any short count for which it receives timely notice, but may require verification of any such claim. Defective goods should be shipped to Vylon Pipe freight prepaid in accordance with Vylon Pipe's defective goods policy which requires prior approval by an authorized Vylon Pipe Manager. Vylon Pipe's liability for breach of this warranty shall be limited to replacement of any goods that Vylon Pipe finds to be defective with an equivalent amount of goods, or at Vylon Pipe's sole option, refund of the purchase price. Claims that are not made within the warranty period (i.e. with 70 days of shipment) shall be deemed waived.

VYLON PIPE SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES CAUSED BY BREACH OF THIS WARRANTY. THIS EXCLUSION APPLIES WHETHER SUCH DAMAGES ARE SOUGHT BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT, OR ANY OTHER LEGAL THEORY. THIS WARRANTY DOES NOT COVER DAMAGE IN SHIPMENT. CLAIMS FOR DAMAGE IN SHIPMENT SHOULD BE MADE TO THE CARRIER IN ACCORDANCE WITH THE TERMS OF THE SHIPPING AGREEMENTS.

THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, ORAL, OR STATUTORY, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES OTHERWISE ARISING FROM A COURSE OF DEALING OR TRADE.
4. DELAY AND NON-DELIVERY REMEDY. Vylon Pipe shall use reasonable efforts to meet shipment or delivery dates specified by it, but such dates are estimates only. Vylon Pipe shall have no liability on account of any excusable delay in delivery of any products or on account of any excusable failure to manufacture, ship or deliver any products, nor shall Buyer refuse to accept delivery because of any excusable delay. Excusable delays and failures include, but are not limited to, those delays and failures which are directly or indirectly caused by fire, flood, strike or other labor dispute, accident, unavailability of transportation, shortage or unavailability of labor, material or supplies or by or from regulations, priorities or orders of any governmental authority or by or from any material or supplies or by or from regulations, priorities or orders of any governmental authority or by or from any cause whether or not similar to the foregoing, beyond the reasonable control of Vylon Pipe. Buyer's sole and exclusive remedy for any other delay or failure to manufacture, ship or deliver shall be limited to the return of the products and/or the recovery of any part of the invoice price of said products therefore paid to Vylon Pipe. In no case shall Vylon Pipe be liable for loss of profits, or any incidental or consequential damages on account of any delay in delivery or any failure to manufacture, ship or deliver, whether or not excused hereunder.
5. SHIPPING TERMS. Unless transportation is provided by Buyer, and except as hereinafter provided, all orders are shipped freight prepaid F.O.B. shipping point of origin; orders under specific minimums are subject to freight prepaid and charge. These shipping terms apply only on single shipments of a single order to one destination within the continental United States. Excess charges incurred, through special routings, at Buyer's request, will be charged to Buyer.
6. CARRIER LOSS AND DAMAGE: REMEDY. Under Vylon Pipe's terms of sale Vylon Pipe has no responsibility for shipments after Vylon Pipe has tendered them complete and in good order to the carrier. IT IS BUYER'S RESPONSIBILITY TO FILE A CLAIM WITH THE CARRIER FOR LOSS OR DAMAGE. Vylon Pipe is willing to assist Buyer in every reasonable way in collecting claims for loss or damage, but this willingness on Vylon Pipe's part does not make Vylon Pipe responsible for collection of claims or replacement of material. If any of the goods specified on the carrier's delivery receipt are short or damaged, Buyer should not accept them or sign the receipt until the carrier agent makes a shortage or damage notation on the receipt. If concealed loss or damage is discovered, Buyer should notify the delivering carrier at once and request an inspection. It is imperative that the above procedure be followed in order to compel carrier to make restitution.
7. WAIVER. Waiver by Vylon Pipe of any provision of this agreement shall not be deemed a waiver of future compliance therewith, and such provision, as well as other provision hereunder, shall remain in full force and effect.
8. APPLICABLE LAW AND JURISDICTION. The Terms and Conditions of Sale are subject to and will be construed in accordance with the laws of the State of Ohio, Vylon Pipe and Buyer expressly agree that original jurisdiction of any dispute arising under or pursuant to this Agreement shall lie in the Common Pleas Court of Cuyahoga County, except in the event that Vylon Pipe, in its sole discretion, elects to cause any dispute hereunder to be adjudicated by binding arbitration. In that event, each of the parties hereto shall select one arbitrator, and the two thus selected shall select a third, which three arbitrators shall hear and determine the dispute between the parties. The arbitration proceedings shall be conducted in Cleveland, Ohio.
9. ASSIGNMENT. Absent the express written consent of Vylon Pipe, any attempt to assign or delegate any right or duty of Buyer arising under his agreement shall be void and of no effect.
10. CANCELLATION CHARGES. Vylon Pipe will not accept cancellation of this order prior to shipment date or thereafter unless Vylon Pipe is reimbursed for work completed and material used, together with all incidental or consequential damages incurred as a result of such cancellation, less any value recoverable from the disposal of such products.
11. TERMS OF PAYMENT. If the financial condition of Buyer becomes unsatisfactory to Vylon Pipe, or Buyer is in default to Vylon Pipe under any order, Vylon Pipe may require payment in cash before shipment of the Vylon Pipe's products. Any open account balances extending beyond Vylon Pipe's statement terms are subject to a 7.5 % carrying charge each month based on the average unpaid balance.
12. TAXES. Prices specified herein do not include any federal, state or municipal sales, use, excise or other taxes. Therefore, in addition to the price specified herein, the amount of any such sales, use, excise or other taxes applicable to the sale of the products covered hereunder shall be paid by Buyer or in lieu thereof Buyer shall furnish Vylon Pipe with tax-exemption certificates acceptable to said taxing authorities.
13. SEVERABILITY. Each of the provisions of this contract, and of these Terms and Conditions is severable. If any provision, or its application to any person or circumstance, shall be held invalid for any reason, such invalidity shall not affect the enforceability of any other provisions of this contract or the application thereof.
14. PARAGRAPH HEADINGS. Paragraph heading are inserted for convenience only and shall not be deemed to limit or affect the scope of the provisions contained therein.