

Terms of Use

I. SOUTHERN PIPE STANDARD TERMS AND CONDITIONS

A. SALES POLICY FOR PRODUCTS

1. Sales Southern Pipe & Supply Company, Inc. and its subsidiaries, divisions and affiliates (collectively, "Southern Pipe") sells its complete offering of products to business customers and individuals (collectively, "Buyer"). This website and our mobile website, applications and other sites on which these policies are posted (collectively, the "Website") are operated by Southern Pipe. We are located at 4330 Hwy. 39 North, Meridian, MS 39301 and our phone number is (601) 693-2911. THE USE OF THIS WEBSITE CONSTITUTES ACCEPTANCE OF THESE TERMS AND CONDITIONS. PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY.

2. Prices All prices for products supplied hereunder will be based upon Southern Pipe's prices in effect at date of shipment. Unless otherwise specified, prices are F.O.B. point of shipment of quantities stated, and are exclusive of any taxes, transportations, handling, special packaging, insurance and similar charges which are to be paid for by Buyer. All orders are subject to credit approval.

3. Taxes

Unless prohibited by law, all federal, state or local taxes, duties, excises, license fees and other charges levied, assessed or imposed upon Southern Pipe applicable to the sale, use or delivery of the products shall be added to the price shown and paid by Buyer to Southern Pipe in lieu of paying such taxes to Southern Pipe. Buyer shall furnish an appropriate tax exemption certificate prior to the shipment of the products.

4. Payment and Credit Terms Unless otherwise stated, payment terms of Southern Pipe are 10th prox net 30. This means that full payment is due each month by the 10th for purchases made through the 25th of the previous month. Invoices billed between the 26th and the last day of the previous month are considered subsequent month's billing. Balances not paid by the last calendar day of that same month will be considered past due. All payments on sales shall be made to Southern Pipe. A service charge will be charged on past due balance at the lesser of 18% per annum or maximum rate allowed by law. Unpaid service charges will be considered past due. Southern Pipe reserves the right at any time to change the terms of payment, withdraw credit or require full or partial payment in advance. Buyer agrees to provide such additional information and documentation as may be requested by Southern Pipe from time to time to verify Buyer's creditworthiness. If Buyer fails to make any payment to Southern Pipe when due, Buyer's entire account(s) with Southern Pipe shall become immediately due and payable, and Southern Pipe may repossess and remove any such produce without notice or demand or may require Buyer to assemble the collateral and make it available to allow Southern Pipe to take possession. In the event of default in payment and if same is placed in the hands of an attorney for collection, Buyer agrees to pay all costs of collection, including reasonable attorney's

fees. Additionally, Buyer, and each of its subsidiaries and affiliates, agrees to provide to Southern Pipe proper authorization necessary for Southern Pipe to request any financial information from third parties. Buyer agrees to assume responsibility for, and Buyer hereby unconditionally guarantees payment of, as provided herein, all purchases made by Buyer, its subsidiaries and affiliates. Each of Buyer's subsidiaries and affiliates purchasing from Southern Pipe are jointly and severally liable for purchases with Buyer, and Buyer is also acting as agent for such subsidiaries and affiliates.

5. **Security Interest** Buyer hereby grants to Southern Pipe a first priority purchase money security interest and/or chattel mortgage in inventory, equipment and goods distributed by Southern Pipe, whenever sold, consigned, leased, rented or delivered, directly or indirectly, to or for the benefit of Buyer by Southern Pipe until full payment is made to Southern Pipe. Buyer agrees to file, and it permits and authorizes Southern Pipe to file, any financing statements or other appropriate documents with its governmental authorities to perfect the validity, priority, and enforceability of Southern Pipe's lien or security interest.

6. **Credit Balance** Buyer agrees that any credit balance(s) issued by Southern Pipe will be applied to Buyer's account within one (1) year of its issuance.

7. **Business Credit** If Buyer's application for business credit is denied or other actions are taken, Buyer will have the right to a written statement of the specific reasons for denial. To obtain this statement, Buyer may contact Southern Pipe at P.O. Box 5738, Meridian, MS 39302 within 60 days after the date Buyer is notified of Southern Pipe's decision. Southern Pipe will send Buyer a written statement of reason(s) for the denial within 30 days after receiving Buyer's written request.

B. FREIGHT POLICY

Prices stated are F.O.B. point of shipment, freight prepaid to destination specified in the order. Southern Pipe charges a shipping and handling fee (which includes internal handling and related costs) on each order, which is applied at time of order and reflected on Buyer's invoice. Receipts for shipping and handling charges will not be furnished. COD shipments are not permitted. Other terms and conditions may apply for other than standard ground delivery ("Other Freight Services"), including, without limitation, expedited same day delivery, air freight, freight collect, export orders, hazardous materials, customer's carrier, shipments outside the contiguous U.S. or other special handling by the carrier. Any charges incurred for Other Freight Services must be paid by Buyer. Fuel surcharges may be applied. If the product is damaged in transit, Buyer's only recourse is to file a claim with the carrier. After delivery by Southern Pipe to carrier or delivery service, Buyer assumes all risks of loss or damage to products for any cause whatsoever. Claims against Southern Pipe for shortages must be made in writing within 72 hours after receipt by Buyer and any claim made thereafter shall be barred. Any claims for loss of or damage to products in transit should be made promptly and directly to the carrier and not to Southern Pipe which shall have no liability therefor. Delivery dates are approximate and Southern Pipe shall not be

liable for any damage or penalty due to delays in delivery. Without limiting the generality of the foregoing, Southern Pipe shall not be liable for any delay due to the acts of Buyer, acts of non-performance of suppliers, strike, difference with workmen, accident, fire, flood, Acts of God, delay in transportation, shortage of materials, equipment breakdown, laws, regulations, orders or acts of any governmental body or cause, direct or indirect, resulting from circumstances beyond Southern Pipe's reasonable control. In such event, delivery dates shall be deemed extended for a period equal to such delays. Orders are not subject to cancellations, delay or revision, in whole or in part, without approval of and upon terms agreed to by Southern Pipe and with full compensation to Southern Pipe for any loss sustained by reason of such cancellation, including a reasonable allowance for profit. Delay in delivery of any installment shall not relieve Buyer of its obligation to accept remaining deliveries. If delays due to Buyer's fault exceed 60 days in the aggregate, the entire purchase shall be due and payable to Southern Pipe on demand.

C. PRODUCT WARRANTY POLICY

1. **Product Returns** All returns shall be in merchantable condition and subject to prior authorization of Southern Pipe. Returns of non-stock items also will be subject to prior authorization from the manufacturer and subject to manufacturer's terms. Buyer will be responsible for all freight charges. A 25% handling charge will apply within 21 days of receipt. No credit will be granted after 21 days from receipt.

2. **No Warranty by Southern Pipe** The merchandise supplied hereunder is covered by and is subject to the terms and conditions of any applicable manufacturer's warranty. SOUTHERN PIPE GRANTS NO WARRANTIES, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, DESCRIPTION, QUALITY, PRODUCTIVENESS, FREEDOM FROM NON-INFRINGEMENT, OR ANY OTHER MATTER, OF THE MERCHANDISE SOLD HEREUNDER, AND SOUTHERN PIPE SHALL IN NO WAY BE RESPONSIBLE OR BE LIABLE IN DAMAGES, CONSEQUENTIAL OR OTHERWISE, ARISING OUT OF OR OCCURRING IN CONNECTION WITH THE DELIVERY, USE, PERFORMANCE OR SERVICE OF THE MERCHANDISE SOLD HEREUNDER. Buyer further agrees that Southern Pipe will not be liable for any lost profits or for any claim or demand against the Buyer by any other party. IN NO EVENT WILL SOUTHERN PIPE BE LIABLE FOR SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES EVEN IF SOUTHERN PIPE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The risk or loss or damage with respect to any merchandise supplied by Southern Pipe to Buyer will be borne exclusively by Buyer. Southern Pipe's aggregate liability for damages under these terms and conditions shall in no case exceed the purchase price paid by Buyer for the particular item of merchandise involved. All claims for obvious defects, shortages or delays relating to the merchandise sold hereunder, must be made in writing to Southern Pipe within five days of receipt of such merchandise and Southern Pipe shall not be liable for any claims not made within such time period.

3. **Warranty Product Return** Before returning any product, Buyer shall write or call the local Southern Pipe branch from which the product was purchased. Proof of purchase is

required in all cases.

4. Product Compliance and Suitability Jurisdictions have varying laws, codes and regulations governing construction, installation, and/or use of products for a particular purpose. Certain products may not be available for sale in all areas. Southern Pipe does not guarantee compliance or suitability of the products it sells with any laws, codes or regulations, nor does Southern Pipe accept responsibility for construction, installation and/or use of a product. It is Buyer's responsibility to review the product application and all applicable laws, codes and regulations for each relevant jurisdiction to be sure that the construction, installation, and/or use involving the products are compliant.

5. Cross-Reference Information Product cross-reference comparisons or product alternatives that are presented do not imply that products are available or perfectly comparable. CROSS-REFERENCED PRODUCTS OR PRODUCT ALTERNATIVES ARE NOT REPRESENTED OR WARRANTED AS FUNCTIONAL OR PERFORMANCE EQUIVALENTS. Buyer shall review all cross-referenced product or product alternative specifications prior to purchase and use to determine suitability of the product for Buyer's intended use.

D. PRODUCT INFORMATION

1. Catalog/Website Information Southern Pipe is a distributor of products and information about the products in the Southern Pipe catalog or Website is provided by the manufacturers and/or suppliers. Product depictions in the catalogs and Website are for illustrative purposes only. Possession of, or access to, any Southern Pipe catalog, literature or websites does not constitute the right to purchase products. Southern Pipe reserves the right to revise publishing errors in any of its catalogs or its Website. Despite our efforts, occasional pricing errors may occur in the Southern Pipe catalogs and Website. Southern Pipe reserves the right to cancel any and all orders resulting from such pricing errors, even if Buyer has received an order confirmation from Southern Pipe.

2. Product Substitution Products and/or country of origin may be substituted and may not be identical to descriptions and/or images published in the catalog or on the Website.

3. Material Safety Data Sheets Material Safety Data Sheets ("MSDS") for OSHA defined hazardous substances are supplied by the manufacturers and/or suppliers. SOUTHERN PIPE MAKES NO WARRANTIES AND EXPRESSLY DISCLAIMS ALL LIABILITY TO ANY BUYER OR USER WITH RESPECT TO THE ACCURACY OF THE INFORMATION OR THE SUITABILITY OF THE INFORMATION IN ANY MSDS. BUYER END USER IS SOLELY RESPONSIBLE FOR ANY RELIANCE ON OR USE OF ANY INFORMATION, AND FOR USE OR APPLICATION OF ANY PRODUCT. Send MSDS requests to Southern Pipe, P.O. Box 5738, Meridian, MS 39302, or call (601) 693-2911.

4. California Proposition 65 The State of California requires that certain warnings be given

concerning products which contain chemicals subject to Proposition 65. A complete list of Proposition 65 regulated chemicals is available at www.oehha.ca.gov. For identification of products which contain a chemical subject to Proposition 65, go to www.southernpipe.com. Applicable Proposition 65 warning(s), (see below) are provided directly on the www.southernpipe.com product page and upon product purchase. Warning: This product contains a chemical known to the State of California to cause cancer. Warning: This product contains a chemical known to the State of California to cause birth defects or other reproductive harm.

5. Purchasers of Products used with or for Potable Water The federal Safe Drinking Water Act (42 U.S.C. 300g-6) and regulations in CA, LA, MD, and VT prohibit plumbing products (including but not limited to pipes, pipe fittings, solder, flux, plumbing fitting, etc.) used to convey water for human consumption that are not "lead free" as defined by the regulations. In order to determine your particular state's standards applicable to the products you purchase for use in or for potable water applications, direct your inquiries to the appropriate regulatory agency in your state. In order to determine the federal standards applicable to the products you purchase for use in or for potable water applications, visit <http://water.epa.gov/drink/info/lead/index.cfm>.

6. Important Notice to Federal Buyers Re: Country of Origin While products listed on GSA Advantage! meet the requirements of the Trade Agreements Act ("TAA"), as implemented by Federal Acquisition Regulations Part 25, other products sold by Southern Pipe may not meet the requirements. At the time of purchase, Southern Pipe will advise properly identified and authorized schedule Buyers if a product is "TAA-compliant." Any federal Buyer purchasing a non-TAA item will be making an "open market" purchase that is not covered by any contract. Federal Buyers are advised that the open market purchases are NOT GSA schedule purchases. By purchasing any product on the open market, the federal Buyer represents that it has authority to make such purchase and has complied with all applicable procurement regulations.

7. Refrigerant Buyers In accordance with the Clean Air Act of 1990, as amended, sale of Class 1 ("CFC") and Class 2 ("HCFC") refrigerant will be restricted to resale purchases and/or to certified professional service technicians. To purchase regulated refrigerant products, all Buyers must present a certification card or sign a statement of resale to complete the purchase.

E. GENERAL TERMS

1. Electronic Data Interchange If Southern Pipe and Buyer mutually agree to use an Electronic Data Interchange ("EDI") system to facilitate purchase and sale transactions, Buyer agrees that it will not contest: (i) any contract of sale resulting from an EDI transaction under the provisions of any law relating to whether agreements must be in writing or signed by the party to be bound thereby; or (ii) the admissibility of copies of EDI records under the business records exception to the hearsay rule, the best evidence rule or any other similar

rule, on the basis that such records were not originated or maintained in documentary form. Southern Pipe and Buyer will negotiate and agree on technical standards and methods to use in making EDI purchases, and will use reasonable security procedures to protect EDI records from improper access. In the event of a conflict, the business records maintained by Southern Pipe regarding EDI purchases made by Buyer shall be deemed to be conclusive.

2. **Third Party Payment Provider** If Buyer elects to use a third party payment system provider ("Third Party Provider") and Southern Pipe is charged fees by the Third Party Provider, Southern Pipe reserves the right to seek reimbursement from Buyer for any and all costs paid to the Third Party Provider for the transfer of funds, retrieval of payment detail, or any other purpose from the Third Party Provider.

3. **Intellectual Property** Buyer shall have no right, title, or interest in the trade names, trademarks, trade dress, copyrights, patents, domain names, product names, catalogs or any other intellectual property rights ("IP") reserved by Southern Pipe, or any IP owned by manufacturers and/or suppliers to Southern Pipe. All materials contained in Southern Pipe catalogs or on its Website are subject to the ownership rights of Southern Pipe and its manufacturers and/or suppliers. Buyer shall have no right to copy or use any IP of Southern Pipe or its manufacturers and/or suppliers without Southern Pipe's permission.

4. **Independent Contractors** Southern Pipe and Buyer are independent contractors and not principal and agent. Nothing contained in these terms and conditions shall be construed to create a partnership, dealership, reseller, agency, employment or joint venture relationship. Buyer does not have the right to bind or otherwise obligate Southern Pipe in any manner, nor may Buyer represent to anyone that it has the right to do so.

5. **Sourced Product** Southern Pipe may procure product not available through Southern Pipe catalogs or available on www.southernpipe.com for a Buyer from other sources ("Sourced Product(s)"). Sourced Product is priced according to current market conditions on a per order basis, and is shipped F.O.B. origin with freight and handling fee paid by Southern Pipe and charged to Buyer. Sourced Product may not be returned without a return goods authorization issued by Southern Pipe. Southern Pipe, at its sole discretion, may withhold the issuance of such authorization. A restocking fee may apply for any returned Sourced Product. SOUTHERN PIPE'S LIMITED WARRANTY TERMS INCLUDED IN THESE TERMS AND CONDITIONS DO NOT APPLY TO SOURCED PRODUCTS. THE PRODUCT WARRANTY PROVIDED BY THE MANUFACTURER AND/OR SUPPLIER OF THE SOURCED PRODUCT WILL BE BUYER'S SOLE REMEDY.

6. **Custom Product** Southern Pipe may offer products manufactured or assembled to Buyer specifications ("Custom Product(s)"). Southern Pipe is not responsible for verifying or confirming the accuracy of specifications provided by Buyer to Southern Pipe for Custom Products. SOUTHERN PIPE'S LIMITED WARRANTY TERMS INCLUDED IN THESE TERMS AND CONDITIONS DO NOT APPLY TO CUSTOM PRODUCTS. THE PRODUCT WARRANTY PROVIDED BY THE MANUFACTURER AND/OR SUPPLIER OF THE CUSTOM PRODUCT WILL BE BUYER'S

SOLE REMEDY, AND ALL OTHER WARRANTIES ARE DISCLAIMED UNDER SECTION I.C.2 ABOVE. All Custom Products are sold on a "FINAL SALE" basis only, and no cancellations, returns, refunds or credits are allowed.

7. Cancellation

All product order cancellations, if not prohibited above, must be approved by Southern Pipe, and may be denied or subject to restocking fees and other charges.

8. Materials of Trade Buyer represents that if it is purchasing products as its "materials of trade," as defined in the Hazardous Materials Regulations in Title 49 of the Code of U.S. Federal Regulations, the products shall be used in direct support of Buyer's business, such business does not concern transportation, and such products shall not be resold or transported in a vehicle other than one owned by Buyer.

9. Assignment Buyer shall not assign any order, or any interest therein, without the prior written consent of Southern Pipe. Any actual or attempted assignment without Southern Pipe's prior written consent shall entitle Southern Pipe to cancel such order upon notice to Buyer.

10. No Third Party Benefit The provisions stated herein are for the sole benefit of the parties hereto, and confer no rights, benefits or claims upon any person or entity not a party hereto.

11. Waiver, Choice of Law and Venue You acknowledge and agree that these Terms of Use, and your use of this Website, shall be governed by the laws of the State of Mississippi without regard to its choice of law provisions. By using the Website, you further acknowledge and agree that any dispute or claim resulting from use of the Website or the content of the Website is subject to the exclusive jurisdiction of the state and federal courts located in Lauderdale County, Mississippi, you submit to the exclusive jurisdiction of those courts with regard to any such dispute or claim, and you waive any and all objections to the exclusive jurisdiction of such courts or that those courts are an appropriate venue for any such dispute or claim. This provision shall survive the termination of your use of the Website or Southern Pipe's termination of these Terms of Use.

12. Severability If any portion of these terms and conditions is found to be invalid or unenforceable by a court of competent jurisdiction, the invalid or unenforceable term shall be severed from these terms and conditions, and the remaining terms and conditions shall be valid and fully enforceable as written.

13. Modification of Terms Southern Pipe's acceptance of any order is subject to Buyer's assent to all of the terms and conditions set forth herein. Buyer's assent to these terms and conditions shall be presumed from Buyer's receipt of Southern Pipe's acknowledgment, or from Buyer's acceptance of all or any part of the products ordered. No additions or modifications of Southern Pipe's terms and conditions by Buyer shall be binding upon

Southern Pipe, unless agreed to in writing by an authorized representative of Southern Pipe. If a purchase order or other correspondence submitted by Buyer contains terms or conditions contrary or in addition to the terms and conditions contained herein or in Southern Pipe's acknowledgment, Southern Pipe's fulfillment of any such purchase order shall not be construed as assent to any of the terms and conditions proposed by Buyer, and will not constitute a waiver by Southern Pipe of any of the terms and conditions contained herein or in Southern Pipe's acknowledgment. Please check these Terms of Use frequently, as we may from time to time unilaterally amend the Terms of Use by posting revised language on the Website. The most up-to-date version of these Terms of Use will always be available for your review on the Website. Amendments will become effective at the time they are posted on the Website. Your continued use of the Website after amendments are posted will constitute your acceptance of such amendments.

14. Complete Agreement The terms and conditions in: (i) Southern Pipe's forms; (ii) acknowledgments; (iii) quotations; (iv) invoices; (v) Website; (vi) catalogs; and (vii) extension of credit are incorporated herein by reference, and constitute the entire and exclusive agreement between Buyer and Southern Pipe. There are no other terms applicable to these terms and conditions whether contained in any purchase order or confirmation or other document of Buyer or through course of dealing or otherwise, and Southern Pipe hereby gives notification of objection to any terms or conditions additional to or different from those contained herein. No delay in enforcement of or failure to enforce any terms hereof shall be considered a waiver thereof by Southern Pipe or a modification of these terms.

15. User Accounts The Website offers a variety of functions and services. Many of the services provide information about Buyer accounts and other personal information. To protect that information, we may require you to establish one or more user accounts to access such services ("User Account"). We reserve the unqualified right (i) to accept or decline an application to open a User Account; (ii) to terminate any User Account and (iii) to discontinue the provision of any service related to such User Account. To use the Website service, you must accept that service's Terms of Use. Information collected from you on the Website (including information about your account and Personal Information) is subject to the Southern Pipe Privacy & Security Policies .

16. Disclaimer ALL CONTENTS OF THIS SITE ARE MADE AVAILABLE TO YOU ON AN "AS IS" BASIS, WITHOUT A WARRANTY OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT, AND WITHOUT LIMITATION AS TO QUALITY, COMPLETENESS, ACCURACY, TIMELINESS OR PERFORMANCE. Neither Southern Pipe nor any affiliate of Southern Pipe or any party involved in creating, producing, maintaining or delivering this Website is liable to you for any direct, incidental, consequential, indirect or punitive damages arising from your use of or access to this Website or its contents. The information contained in this site is for general use. Therefore, it does not constitute advice and should not be relied upon in making or refraining from making any decision. Neither Southern Pipe nor any affiliate or any party involved in creating, producing, maintaining or

delivering this Website will be liable for any damages arising in contract, tort or otherwise from the use or inability to use this Website or its contents. Information, images and related graphics on this Website may contain inadvertent errors or technical inaccuracies, which we may update or change periodically. If a product or service is listed at an incorrect price due to typographical or other error, Southern Pipe has the right to correct it before fulfilling any orders placed for products or services listed at the incorrect price. We may also make improvements or changes to the services or programs described in this information at any time without prior notice. We make no warranty that the contents of this Website are free from infection by viruses or any other destructive or contaminating entity.