

**Kenny Pipe & Supply, Inc**  
**Eagle Equipment Company**  
**Terms and Conditions**

1. The following terms and conditions of sale govern all purchases made whether or not these are contained on each and every invoice of Seller:

All references in this document to "Seller" shall include each subsidiary or division or office authorized to sign for Kenny Pipe & Supply, Inc whether or not specifically identified herein and wherever located.

a. Unless otherwise provided on the face hereof, price and terms stated herein are subject to immediate acceptance and apply to this order only. Prices in quotations made by Seller are subject to change without notice, and all quotations expire and become invalid if not accepted within 30 days from the date of issue, unless otherwise noted by Seller in writing. Pricing extensions when made are for Purchaser's convenience only, and they, as well as any mathematical, stenographic, or clerical errors, are not binding on Seller. Any changes in quantities or destination may result in a price adjustment by Seller.

b. In addition to the Unit Prices the Buyer shall pay Seller for all sales, use, excise and retailers occupational taxes which Seller must, at any time either pay or collect in connection with the goods sold hereunder.

c. The Invoice Total shown on the invoice shall be due and payable to the Seller's office designated by this invoice within 25 days following the end of the month during which shipment was made. In the event of default in payment when due of any payment owing Seller, Buyer shall pay Seller the amounts owing together with the late charge of 1 1/2% per month (calculated on the amounts owing Seller) from the date due and until paid, plus reasonable attorney's fees and court costs incurred by Seller in the enforcement of any of the terms and conditions of this order.

d. All orders shall be subject to approval and acceptance by the applicable Seller's Branch and shall be subject to the terms and conditions of payment as established by the Seller's Credit Department.

e. Except to the extend otherwise specifically provided to the contrary on the face hereof, (a) Seller shall have the option of selecting the particular route and carrier for the shipment of goods to the Buyer, F.O.B. place of shipper and (b) no delivery allowance will be made. Goods are subject to shipment in whole or in part at the option of Seller and each such shipment to immediate invoicing.

f. Delivery of goods to the Buyer's common, contract or exempt carrier, to the Buyer's vehicle or to any other person or vehicle at the direction or on the authority of Buyer or Buyer's agent, shall constitute delivery to and acceptance by Buyer and thereafter the risk of loss from any casualty, injury or destruction to the goods, regardless of the cause of loss, shall be on Buyer. If Buyer directs or authorizes delivery to its private carrier, Buyer certifies that such carriage is in full compliance with applicable federal, state or local law pertaining to transportation safety. Claims for damage to, or loss, of goods in transit shall be filed by Buyer directly with carrier. Delivery dates are estimated as closely as possible and Seller will use its best efforts to make delivery within the time specified, but in any event Seller will not be liable for failure to meet delivery dates. All errors, clerical or otherwise, are subject to correction.

g. To secure payment and performance of all obligations, Applicant hereby grants Seller a Purchase Money Security Interest in all inventory, equipment, and goods distributed by Seller, whenever sold, cosigned, leased, rented or delivered, directly or indirectly, to or for the benefit of Applicant by Seller, wherever located, now owned and hereafter acquired included but not limited to all Plumbing, fixtures, Tools, Safety Products, Waterworks Products, HVAC Products, PVF Mechanical & Industrial Products accessories and supplies. The security interest extends to all repossessions and returns; and all proceeds from the sale, lease or rental; and all existing or subsequently arising accounts and accounts receivable, chattel paper, general intangibles, and supporting obligations which may from time to time hereafter come into existence during the term of this Security Agreement. Seller's security interest is explicitly limited to outstanding obligations between Seller and Applicant.

h. Applicant will insure the Collateral against all expected risks. Applicant will not subject Collateral to any adverse encumbrance or lien. Applicant authorizes Sellers to file financing statements describing the collateral, and will assist Seller in taking the necessary action to perfect and protect Seller's security interest.

i. All claims for shortages or inaccurate filling of orders shall be made within 10 days after Buyer's receipt of the goods.

j. No credit for goods returned by Purchaser shall be given without Seller's written authorization. All returns are subject to a restocking charge. Not claim for shortage of goods or damage to goods shall be allowed unless Purchaser, with ten (10) days after receipt of shipment, gives Seller written notice of the claim for shortage or damage and in such written notice fully describes the shortage and/or damage alleged. Sellers responsibility ceases upon issuance of Bill of Lading. Seller shall not be liable to Purchaser for goods, which are damaged or lost while in possession of a common carrier, and it will Purchaser's responsibility to recover any and all damage directly from the common carrier.

k. SELLER MAKES NO WARRANTY OF MERCHANTABILITY OF THE GOODS OR OF THE FITNESS OF THE GOODS FOR ANY PURPOSE, AND FURTHER MAKES NO WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. ALL OTHER WARRANTIES ARE EXCLUDED, WETHER EXPRESSED OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER'S LIABILITY HEREUNDER, AND PURCHASER'S EXCLUSIVE REMEDIES HEREUNDER, EITHER IN CONTRACT OR IN TORT OR PURSUANT TO STATUTE, FOR BREACH OF WARRANTY OR FOR NEGLIGENCE, ARE EXPRESSLY LIMITED TO THE GIVING OF CREDIT OR REPLACEMENT. SELLER MUST BE GIVEN WRITTEN NOTICE IDENTIFYING THE DEFECTIVE GOODS AND SPECIFYING THE DEFECT WITHIN TEN (10) DAYS AFTER RECEIPT OF THE GOODS BY PURCHASER. SELLER MUST ALSO BE GIVEN THE OPPORTUNITY TO INSPECT THE ALLEGEDLY DEFECTIVE GOODS, AND IF REQUESTED BY SELLER, THE ALLEGEDLY DEFECTIVE GOODS MUST BE RETURNED TO SELLER. FAILURE TO GIVE REQUIRED NOTICE WITHIN THE TIME PROVIDED, OR FAILURE TO RETURN ALLEGEDLY DEFECTIVE GOODS TO SELLER FOLLOWING SELLER'S REQUEST CONSTITUTES A WAIVER OF

**Kenny Pipe & Supply, Inc**  
**Eagle Equipment Company**  
**Terms and Conditions**

ALL CLAIMS AGAINST SELLER. SELLER'S RESPONSIBILITY TO GIVE CREDIT OR REPLACEMENT IS LIMITED TO THE EXTENT THAT SELLER IS ABLE TO OBTAIN EQUIVALENT CREDIT OR REPLACEMENT FROM THE ORIGINAL MANUFACTURER OF SUCH GOODS. PURCHASER AND SELLER AGREE THAT SELLER SHALL NOT BE LIABLE DIRECTLY OR INDIRECTLY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR INDIRECT DAMAGES IN ANY WAY ARISING FROM THE SALE, HANDLING, OR USE OF THE GOODS SOLD OR FROM ANY OTHER BREACH OF THIS DOCUMENT, ANY PURCHASE ORDER OR ANY OTHER AGREEMENT BETWEEN PURCHASER AND SELLER. Seller warrants that the goods sold shall be of the standard quality of Seller, and Buyer assumes all risk and liability resulting from the use of the goods, whether used singly or in combination with other goods. Seller neither assumes nor authorizes any person to assume for Seller any other liability in resulting in or from the use of the goods sold, and there are no oral agreements or warranties collateral to or effecting this agreement. If within one (1) year following the date of delivery, any goods supplied by Seller hereunder fail to conform to this limited warranty, Buyer shall immediately notify Seller stating full particulars in regard to the claim. If the goods sold shall not be of the standard quality of Seller, Seller will adjust the matter fairly and promptly. Service under this limited warranty of one (1) year after delivery is the responsibility of the installing dealer or contractor. In the event service is required, the Buyer should request such service directly from the installing dealer or contractor. If for any reason the installing dealer or contractor is unknown or cannot be located, the Buyer should write Seller for the name and address of the nearest alternate dealer or contractor. Buyer shall not return the goods unless the Seller requests the goods be returned. Seller shall not be liable for incidental or consequential damages or for any labor or expense incurred in connection with the Buyer's use, alteration, repair or sale of any goods which are defective. The liability of Seller for damages shall not exceed the Unit Price of the particular quantity delivered with respect to which damages are claimed.

l. The terms and conditions herein contained shall apply to any order or direction received from Buyer and no provision in any such order or direction from Buyer in any way modifying or changing the terms and conditions herein contained shall be binding upon Seller. No modifications shall be effected by Seller's shipment of goods following receipt of Buyer's order or request for shipment which may contain provisions contrary to the terms and conditions herein contained. There are no terms, conditions, understandings, or agreements, other than those stated herein, and all prior proposals and negotiations are merged herein. All sales made by Seller are subject to the Terms and Conditions of Sale, which shall prevail over any inconsistent terms of Purchaser's purchase order or other documents. No modification or alteration of these provisions shall result by Seller's shipment of goods following receipt of Purchaser's purchase order or other documents containing provisions, terms, or conditions in addition to, in conflict with, or inconsistent with these provisions.

m. No waiver, discharge, or modification of this order, or any of its terms shall bind Seller, unless in writing and signed by the authorized representative of Seller. No waiver discharge or modification of any of the provisions of this order shall be deemed a waiver, discharge or modification of any other provision.

n. None of the Buyer's rights or obligations under this order shall be assigned or delegated by the Buyer to any other person or entity, whether by operation of law or otherwise, without prior written consent of Seller.

o. To the extent that is required by Executive Order No. 11246 and by the rules and regulations thereunder, there is hereby incorporated the provisions of paragraph (1) through (7) of Section 202 unless otherwise exempted by rules, regulations, or orders issued pursuant to such section.

p. Seller assumes no responsibility whatsoever for Seller's interpretation of plans specifications provided by Purchaser and Purchaser's acceptance must be premised on final approval by Purchaser's architects, engineers, or other third parties, and not on Seller's interpretation.

q. This agreement is and shall be construed as a contract in the State of Tennessee and shall be governed in accordance with the laws of Tennessee. Purchaser agrees state and federal courts located in Davidson County, Tennessee shall be the sole venue for and shall have sole jurisdiction for any disputes arising hereunder.

2. A charge of 1 1/2% per month will apply on any overdue indebtedness from the date payment was due plus reasonable attorney's fees, court costs and expense. This service charge will apply unless prohibited by law, in which case the highest legal rate will be charged.

3. Applicant understands that Kenny Pipe & Supply, Inc. may change, from time to time, its standards for granting credit, as well as its terms of credit.

4. In connection with my application for credit, I/We authorize Kenny Pipe & Supply, Inc. to conduct and/or cause to be conducted a credit investigation and authorize others to answer questions about their credit experience with me/us.

**Kenny Pipe & Supply, Inc**  
**Eagle Equipment Company**  
**Terms and Conditions**

5. Kenny Pipe & Supply, Inc. reserves the sole right to approve or disapprove this application for any reason it may determine.
6. The undersigned hereby certifies that everything stated in this application is true and complete and is made for the purpose of obtaining credit, and the application will be retained by Kenny Pipe & Supply, Inc.
7. Payment is due in the form of cash, check, or money order. Seller may apply Purchaser's payment against any open charges with Seller's sole discretion. Purchaser agrees to pay Seller on past due accounts a monthly interest charge equal to the maximum interest charge permitted to be charged by the law governing the account between Purchaser and Seller. The interest rate stated herein shall continue to accrue after Seller obtains a judgment against Purchaser. The Seller has the right to exercise setoff or recoupment when needed to satisfy an outstanding debt.
8. Applicant represents, warrants, and certifies that it is authorized to execute this agreement on behalf of the applicant and it does so with full authority of the applicant.