

TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale (these “Terms”) apply to all sales of Company pipe, fittings and related products (“Products”). The term “Company” refers to Westlake Pipe & Fittings Corporation with offices at 2801 Post Oak Blvd., Houston, Texas 77056. This transaction shall be governed by the laws of the State of Texas without regard for the conflict of laws principles thereof.

LIMITED WARRANTY

<https://www.westlakepipe.com/en-ca/warranty>

Warranty Coverage

<https://www.westlakepipe.com/en-ca/warranty>

Warranty Exclusions

<https://www.westlakepipe.com/en-ca/warranty>

PRICING

Stock Orders: Stock pricing is available for stock orders shipped to distributor’s yard only. Stock orders must be in full units, with a minimum quantity of one truckload. Stock orders will be shipped at prices in effect at the time of shipment unless otherwise agreed. Premiums may be added for less-than-truckload (LTL) quantities or special packaging and handling.

Pipe Contractor Jobs: Price quotes for a contractor job are firm for fifteen (15) days from the date of bid opening unless otherwise stated in the quotation, after which time prices are automatically cancelled. A firm order, accompanied by a firm shipping schedule, must be placed with Company before the expiration date. Prices stated on Company’s order acknowledgment document are firm for delivery within thirty (30) days of the date of receipt of an order, unless otherwise stated on Company’s order acceptance document. Quotations by Company are to be interpreted as solicitations for a bid. Company reserves the right to cancel or to revise the quotation at any time prior to the acceptance of orders.

In the event that the project is delayed by Buyer or any other third party, Company reserves the right to adjust the price for any Products not yet delivered. If, however, the delay is caused by Company’s inability to make the delivery as agreed, the acknowledged price will be honored. Shipments made before the ship complete date will be at acknowledged prices unless otherwise agreed upon by Company in writing. Shipments are subject to availability of inventory for shipment in full truckload quantity. Company will use commercially reasonable efforts to provide the combined shipping with other orders. It is Buyer’s responsibility to fill out the truckload and expedite the shipment.

FORCE MAJEURE

Company shall not be liable for damage resulting from delay in performance or for non-performance directly or indirectly caused by circumstances beyond the reasonable control of the party affected, including, but not limited to, acts of God, fires, explosions, floods, epidemics, pandemics or other mass adverse health events, wars, acts of or authorized by any government commission, agency or jurisdiction, accident, labor or storage trouble, or inability to obtain material, equipment or transportation. Quantities so affected may be eliminated from the agreement without liability, but the agreement shall remain otherwise unaffected. Company shall have no obligation to purchase supplies of the products specified in any order from or agreement with Buyer to enable it to perform the order or agreement.

TERM OF PAYMENT

Terms are Net 30 days unless otherwise expressly stated on the face of the order. Any cash discounts allowed shall apply to net material value after deducting transportation, but before additions or deductions for taxes, special packaging, or other charges. Company reserves the right to change these terms at any time. Any payment received by Company after the due date shall be subject to a late payment charge not to exceed 1.5 % per month (18% per year) or the maximum rate allowed by applicable law, whichever is less, until the outstanding balance, including accrued late payment charges, is paid in full. Unearned cash discounts taken will be automatically charged back against open accounts receivable.

CREDIT

All orders and shipments are subject to approval by Company’s Credit Department. Buyer unconditionally assigns to Company all lien rights that it may have, whether as a vendor or otherwise, to secure payment of moneys owed to Buyer by reason of Buyer’s sale of the Products to a third party. Such assignment shall be limited in amount to the amount of the unpaid balance(s) owed by Buyer to Company for such Products and shall remain in effect only for so long as such balance(s) shall remain unpaid. Buyer hereby appoints Company as its attorney-in-fact to execute and record such documents as are necessary to effect said assignment and/or to enforce said lien right.

Buyer agrees to pay all reasonable attorneys’ fees and all expenses associated with the collection of moneys Buyer owes Company.

Buyer represents that it is not insolvent as that term is defined in the Uniform Commercial Code. In the event Buyer becomes insolvent before delivery of the Products, it will so notify Company in writing. Buyer’s failure to so notify Company shall be construed as a reaffirmation of Buyer’s solvency at the time of delivery.

Buyer hereby grants Company a security interest in the Product sold to Buyer by Company and all proceeds thereof, which will be deemed collateral for Buyer’s debt to Company until Buyer has paid Company for such Product in full. In addition, Buyer authorizes Company to sign on behalf of Buyer UCC-1 Financing Statements perfecting Company’s security interest in the above collateral.

FAIR LABOR STANDARDS

Products covered by these Terms were produced in compliance with applicable provisions of the Fair Labors Standards Act of 1938, as amended.

CANCELLATION

Buyer may cancel orders prior to shipment. In the event of Buyer cancellation, orders may be subject to liquidated damages in the amount of the cost of labor, storage, overhead and material used, plus ten percent (10%) of sales price. Nonstandard or custom-produced Products are not subject to Buyer’s cancellation once production has begun.

ORDER AND SHIPPING CONFIRMATION

Upon receipt of order acknowledgment from Company, Buyer must verify pricing, quantity, Products, shipping instructions and shipping schedule on the order set. Should any changes become necessary, Buyer must inform Company’s Customer Service Representative in writing immediately. Failure to do so will result in a restocking charge of up to twenty-five (25%) percent.

Orders requiring affidavits or certificates of compliance must so state when orders are placed with Company.

NO ASSIGNMENTS

No order or agreement for the purchase by Buyer and sale by Company of Products is assignable or transferable by either party, in whole or in part, except with the written consent of the other party, which shall not be unreasonably withheld.

SHIPPING AND DELIVERY

Company will use commercially reasonable efforts to meet Buyer’s requested shipment schedule, but Company does not guarantee a delivery time and hereby expressly disclaims any and all liability for additional costs or damages resulting from late deliveries. Risk of loss or damage shall rest on Buyer after shipment from Company. Upon receipt of an order, Buyer must inspect the condition and quality of the Products received. Any damage, loss, shortage, or misidentification should be reported to the driver and noted on the Bill of Lading. Claims for errors in shipment must be made within five (5) calendar days after receipt of Products. In the event of an error in Products shipped, Company, at its sole discretion, shall either replace the Products or issue a credit to Buyer. Buyer shall ship all nonconforming Products back to Company. Company reserves the right to ship orders at the most economical rate. Should Buyer request special packaging or handling, the additional cost will be billed to Buyer.

RETURNED PRODUCTS

Buyer must obtain written approval from Company Customer Service before returning any Products to Company. Unauthorized returns may be scrapped at Buyer’s expense. Ownership of authorized returns will pass to Company upon receipt at Company’s factory. Company will determine acceptability of returned Products for restocking and resalability. Credit will be issued on resalable Products only. A restocking charge of up to twenty-five percent (25%) and freight costs both ways for the returned Products may be charged to Buyer’s account.

FREIGHT

Unless otherwise expressly stated on the face of the order, truckload shipments are F.O.B. shipping point with transportation prepaid by Company to the job site or to Buyer's stocking location, whichever applies, provided that such job site or stocking location, as applicable, is legally and physically accessible to interstate freight carriers operating under D.O.T. regulations. Buyer may elect to ship a lesser quantity than a full truckload via common or contracted carrier from the shipping location if Buyer pays any applicable freight penalty. All additional freight charges for Stopover/Drop Shipments/Demurrage allowed by D.O.T. regulations shall be charged to Buyer's account.

ORDER ACCEPTANCE OR REJECTION

No order placed with Company shall be considered accepted until acknowledged in writing by Company. Company reserves the right to accept or reject any order. Possession of a price list does not constitute an offer to sell. The terms and conditions stated herein constitute the entire terms and conditions of sale between the parties.

TAXES

Any taxes or other governmental charge upon production, sale, transportation, storage, or shipment of Product imposed by federal, state, municipal or other authorities shall be added to the price and must be paid by Buyer, regardless of whether said tax or charge is included on the initial invoice to Buyer. Tax Exemption Certificates for states into which Product is being shipped must be on file with Company. Otherwise, all applicable state and local taxes will be charged. These taxes will be shown on the invoice.

GOVERNING LAW AND VENUE

All matters arising out of or relating to the purchase by Buyer and sale by Company of Products are governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the State of Texas. Any legal suit, action or proceeding arising out of or relating to the purchase by Buyer and sale by Company of Products shall be instituted in the appropriate state or federal court in Harris County, Texas, and each party irrevocably submits to the exclusive jurisdiction and venue of such courts in any such suit, action or proceeding.

LIMITATION OF LIABILITY

IN NO EVENT SHALL COMPANY OR BUYER BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR SPECIAL DAMAGES. NOTWITHSTANDING ANY OTHER PROVISION OF THESE TERMS OR ANY OTHER DOCUMENT OR AGREEMENT RELATED HERETO TO THE CONTRARY, COMPANY'S MAXIMUM AGGREGATE LIABILITY UNDER AN ORDER SHALL BE LIMITED TO THE AGGREGATE PURCHASE PRICE OF THE ORDER.

AMENDMENT AND MODIFICATION

These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.

Revised 2/2024