

# MPV TERMS AND CONDITIONS OF SALE

These terms and conditions govern all purchases, sales, and transactions between the Purchaser and the Michigan Pipe and Valve/Michigan Pipe & Valve entity or entities ("MPV") from which Purchaser buys goods.

1. **ACCEPTANCE OF TERMS.** Purchaser has read these MPV Terms and Conditions of Sale (hereinafter the "MPV Terms and Conditions") and assents to them as governing Purchaser's transaction with MPV. No term in another form, order, request, or document shall apply unless clearly and expressly consented to in a writing signed by an authorized manager of MPV. These terms supplement the rights granted MPV under common and statutory law, such as those granted by the Uniform Commercial Code. Purchase's contradictory, supplementary, or additional terms, whether sought as a change to these MPV Terms and Conditions or contained in a purchase order, confirmation, requisition, or any other document, are considered proposals, are material alterations, and are expressly rejected, regardless of Purchaser's acceptance or payment for the goods or services once or in a course of dealing. Electronic signatures are permitted, enforceable, and binding on the Purchaser. The Purchaser gives MPV authority to rely on email correspondence for confirmation of Purchaser's order.
2. **TERMS OF PAYMENT.** All transactions between Purchaser and MPV shall be reflected in invoices from MPV to Purchaser. Full payment of an invoice is due and payable in cash, check, or ACH/Wire transfer within thirty (30) days of the invoice date. The price for all goods sold by MPV to Purchaser is time sensitive, based upon the date of each sale and the date of payment. Purchaser therefore agrees to pay MPV time-price differential charges of one and one-half percent (1.5%) per month on all invoice amounts that are not timely paid, such that the price of the unpaid invoice will be increased by this 1.5% time price differential until the invoice is paid in full. No contractor or other discounts apply unless expressly set forth on the face of any invoice. Any sales taxes will be reflected on the invoice and added to the total purchase price, but no quotes from MPV shall contain any taxes. Credit card payments in excess of \$3,000.00 per month will be subject to a 3% surcharge. In the event the Purchaser disputes any amount due and owing on any invoice, the Purchaser must provide a detailed written objection to MPV no later than ten (10) days after MPV's issuance of the invoice. The Purchaser's failure to provide a detailed written objection to MPV within ten (10) days of the issuance of MPV's invoice shall result in a waiver of all claims and objections related to MPV's invoice.
3. **PAYMENTS.** Pursuant to Michigan law, Purchaser is responsible for delivery of payment to MPV. Payments by check should be made payable to "Michigan Pipe and Valve" and should include the invoice number on the check or enclosure letter accompanying the check. Checks should be mailed to Michigan Pipe and Valve, 823 E. Michigan Avenue, PO Box 4370, Jackson, MI 49204. Electronic transactions and internet fraud pose a risk to consumers of all types. To mitigate this risk, when Purchaser pays by ACH or Wire Transfer, Purchaser should verify the account number and routing number details by contacting the MPV credit manager by telephone at (517) 764-9751. MPV will still require payment if Purchaser inadvertently transfers funds intended for MPV to a different party.
4. **LIEN AND BOND INFO.** Purchaser shall provide the location and owner of each project for which goods are purchased. MPV may demand Purchaser provide notices of commencement, project information, payment bonds, and proof of the project owner's financing for the project as a condition precedent to its duty to tender goods to Purchaser. MPV may stop delivery if Purchaser does not promptly provide these documents or information upon request.
5. **SALES TAX EXEMPTION.** Purchaser shall provide proper certification to support any claim of tax exempt status. Purchaser is responsible to pay or reimburse MPV for all sales and use taxes paid by MPV on transactions with Purchaser.
6. **TERMS OF DELIVERY.** All transactions are F.O.B. MPV's warehouse. Title to the goods and the risk of loss to them passes to the Purchaser once the goods leave MPV's warehouse. Transportation charges will be charged on the invoice as freight and handling. Transportation charges in all other cases will be paid by the Purchaser directly to the carrier. Purchaser has the option of picking up the goods at its expense.
7. **ACCEPTANCE OF GOODS.** Purchaser is a knowledgeable buyer that relies on its own expertise for selection of the goods it procures from MPV. Purchaser will inspect all goods upon their delivery and will immediately provide MPV with written notice of any non-conformity. While acceptance of the goods may occur in several ways, at a minimum, Purchaser's failure to timely inspect the goods and provide notice of non-conformity or Purchaser's placement of the goods in the field at the project site constitutes acceptance.
8. **SCHEDULE.** Purchaser's schedule is not binding on MPV unless specifically accepted in a writing signed by MPV's authorized manager. MPV may deliver or tender goods in installments in its reasonable discretion, based on size of order, the goods' availability, and carrier capacity. MPV may, without penalty, reduce a Purchaser's order or cancel it entirely if the goods or a part of them is not reasonably available.
9. **SHORTAGES.** Shortage claims will not be considered unless made in writing within ten (10) days of the Purchaser's receipt of the goods. Freight shortage claims must be filed with the carrier.
10. **RETURNS.** MPV will accept returned goods only if MPV shipped them from its warehouse in error or under special circumstance expressly acknowledged by MPV in writing. All return requests must be made within ten (10) days of shipment and must be approved by MPV in writing. All written approvals will include the issuance of a Returned Goods Authorization Number. This number must be clearly marked on the outside of all cartons containing returned goods. All approved returns not caused by MPV's shipping error will be subject to handling and restocking charges of 20%. All approved returns must be in clean, resalable condition with freight prepaid by Purchaser. MPV will deduct the amount of all proper approved returns from the invoice or account of Purchaser, less any transportation, restocking and/or handling charges. MPV will refuse goods returned to MPV without prior written approval. The refused returns will be returned to the Purchaser. Good returned to the Purchaser for failing to observe this policy shall remain the Purchaser's responsibility. Non-standard, special order or custom-made products or goods are not subject to cancellation or return once the order has been placed by the purchaser.
11. **VERBAL ORDERS:** MPV reserves the right, in its sole discretion, to accept verbal orders for goods from the Purchaser. In the event of a verbal order, MPV shall send written confirmation to the Purchaser. If the Purchaser does not provide

immediate written objection to MPV and no later than twenty four (24) hours after MPV sends written confirmation, the Purchaser shall be deemed to have accepted the written confirmation.

12. **NO IMPLIED WARRANTIES.** Purchaser understands the goods are not manufactured by MPV. **MPV disclaims all implied warranties of merchantability and fitness for a particular purpose.** Goods may only be returned in strict accordance with Paragraph 10, above.
13. **NON-CONFORMING GOODS.** Purchaser will handle and store any goods it believes to be defective or non-conforming with care and will follow MPV's instructions for handling, storage, and return of them. MPV's responsibility and liability for defective or non-conforming goods is limited to the replacement of them.
14. **FORCE MAJEURE.** MPV shall not be liable for any expenses, liabilities, losses, or damages resulting from any delay or prevention of performance caused by fire; flood; act of God; strike; labor dispute; labor shortage; reasonable inability to obtain the goods, materials, fuel, supplies, or equipment; riot; theft; accident; transportation delay; an act or failure to act by the government; a major equipment breakdown; or any other cause beyond the reasonable control of MPV. MPV may reasonably allocate delivery quantities among its customers in the event the goods are in short supply.
15. **DISCLAIMER OF DAMAGES FOR IMPROPER USE.** MPV shall not be responsible for damage to the goods, or damage caused by the goods resulting from improper installation, maintenance, unintended use or attempts to operate them beyond their capacity, intentionally or otherwise, or any unauthorized repair of the goods.
16. **INDEMNIFICATION.** To the extent allowed by law, Purchaser shall defend and indemnify MPV for all claims, costs, and liabilities related to Purchaser's misuse or misapplication of the goods, including professional and attorney fees. Purchaser shall pay costs and attorney fees MPV incurs to enforce this obligation.
17. **LIMITATION OF LIABILITY.** MPV lacks control over, and information about, the project for which the goods are being provided. Purchaser releases MPV from liquidated, incidental and consequential damages resulting from any failure in the delivery, quality, or performance of the goods or MPV. MPV's liability for damages does not exceed the price of the goods themselves.
18. **QUOTES AND CATALOG.** All information, recommendations and suggestions made by MPV, if any, are based upon tests and data believed to be reliable. However, it is Purchaser's sole responsibility to determine the suitability of the goods for each application. MPV does not accept responsibility for the accuracy of the information contained in its catalog, or provided by any salesman. MPV reserves the right to change the prices at any time and without notice to the Purchaser or other customers. Ductile iron pipe may be billed at a higher price. Prices in quotations are only valid for goods shipped within 30 days of the quotation date, and quoted prices are subject to change if project specifications change. Purchaser understands MPV's price and performance depend on the goods' market price and availability, among other things. Therefore, MPV may revoke a quoted price at any time before Purchaser's written and acceptance of MPV's unaltered quotation.
19. **BREACH AND REMEDIES.** Any failure by the Purchaser to tender full payment when due, or any wrongful rejection or repudiation of the goods shall constitute a material breach and shall entitle MPV to pursue any or all of its remedies under these MPV Terms and Conditions and applicable law. MPV's remedies are cumulative and shall include without limitation: (a) withholding delivery of products; (b) stopping delivery by the carrier; (c) reselling the products and recovering damages; (d) recovering damages for non-acceptance and/or nonpayment; (e) cancelling this agreement; and, (f) reclaiming delivered products. Any failure to timely pay any invoice from MPV shall be deemed a material default, which shall entitle MPV to withhold performance on any other project.
20. **NO WAIVER.** Any delay or failure by MPV to enforce or pursue any or all of its remedies upon a breach by Purchaser shall not be construed as a waiver of MPV's rights under the MPV Terms and Conditions or applicable law. Any waiver of MPV's rights or claims under this agreement must in writing signed by MPV and given in exchange for valuable consideration.
21. **ASSIGNMENT AND DELEGATION.** Purchaser shall not assign or delegate any accepted quotation or transaction to another person or entity without MPV's written consent. Any assignment or delegation not consented to in writing is void.
22. **ENTIRE AGREEMENT.** These MPV Terms and Conditions and the unaltered, accepted quotation of MPV that incorporates them constitute the entire agreement between Purchaser and MPV for the stated transaction and supersedes all prior quotations, representations, negotiations, and agreements, whether written or oral. An agreement for a transaction between Purchaser and MPV can only be modified in writing.
23. **SEVERABILITY.** If any part of the MPV Terms and Conditions are deemed unenforceable for any reason, only the offending provision shall be stricken, and the remainder of the MPV Terms and Conditions shall remain in full force and effect.
24. **GOVERNING LAW.** The MPV Terms and Conditions shall be construed under and controlled in all respects by the law of the State of Michigan, without regard to any conflicts of law principles. Purchaser agrees that personal jurisdiction and venue shall lie in the county in which the distributing warehouse, from which Purchaser made any purchase, is located or in the jurisdiction of the project to which the goods were supplied.
25. **ATTORNEYS FEES.** Purchaser shall reimburse MPV for all court costs and attorney fees that MPV incurs to enforce MPV's rights under these MPV Terms and Conditions. This includes all post-judgment attorney fees and collection costs until Purchaser's debt is paid in full.