

Terms and Conditions/Warranty

Shipments

Aquamine pipe is shipped in convenient 20-foot lengths and is packaged in palletized units for easy handling.

All T/L orders are shipped F.O.B. per Aquamine standard freight policy. Note: Delivery to other than distributor's yard requires written approval from Aquamine sales personnel. See freight policy below for more details.

Terms of Payment

Net 30.

Shipping Quantities

Any AquaPaks broken for distributor orders will be subject to a broken bundle charge.

Aquamine Freight Policy

- I. **Scope:** The purpose of these guidelines is to establish those instances in which Aquamine will pay all, or a portion of, Common Carrier freight costs related to the shipment of Aquamine goods, either directly to distributors or their customers, to any location or port of exit in the contiguous 48 states of America.
- II. **Limitations:** All customer Purchase Orders considered for full or partial freight allowances paid by Aquamine will be primarily governed by the following distance and ratio limitations:
 - A. The maximum shipping distance included in any full Freight Allowed shipment to an existing Aquamine Distributor will encompass any point lying within a 400-mile radius of Aquamine's Bristol, TN facility.
 - B. Aquamine will also, at its sole discretion, ship any order deemed as freight free directly to a distributor's customer, provided that this destination is within 100 miles of that distributor's primary (common) shipping address and also falls within the same 400 mile radius as indicated in item A. above.
 - C. For any shipment outside this 400 mile zone that would otherwise be considered full Freight Allowed, Aquamine will pay a pro-rated portion of the total freight charges incurred by the customer, up to a maximum of \$1,000.00 (One-Thousand Dollars US).
 - D. All partial truckload shipment (as detailed in Part IV below) freight ratio calculations will only apply to shipping points within the initial 400-mile umbrella. Any variance from this provision will have to be negotiated separately, prior to that order's submission.
- III. **Definitions:** The criteria for determining the freight free status of an order depends upon whether or not an order is considered "Freight Free". A freight free order is considered to be one of the following:
 - A. Any order whose quantity of pipe equals a standard full truck quantity will be considered freight free. For mixed size orders, a separate worksheet is available for calculating the equivalent of a full truckload for any configuration of pipe ordered.
 - B. Any order whose total dollar value meets or exceeds the amount of \$28,000 (USD) will be considered freight free. These orders can consist of any mixture of pipe, fittings, or accessories, since total dollar value is the determining factor.
- IV. **Partial Truckloads:** Any order considered freight free (based upon the selection criteria defined above) which requires more than one common carrier truck to deliver will have the cost for any partial truck shipments prorated according to the following schedule:
 - A. Any partial truckload quantity, which meets or exceeds 60 percent (60%) of the applicable full truckload definition, will ship at no cost to the customer.
 - B. For any partial truckload quantity, which falls between 35 percent (35%) and 59 percent (59%) of the applicable full truckload definition, the customer will be responsible for one half (1/2) of the total freight cost(s) pertaining to those partial truckload(s).
 - C. For any partial truckload quantity, which is less than 35 percent (35%) of the applicable full truckload definition, the customer will be responsible for all of the total freight cost(s) pertaining to those partial truckload(s).
 - D. For any partial truckload quantity defined in items A – C above, the customer may elect to either --(1.) increase the original quantity(s) ordered, or (2.) submit a new purchase order to ship with the existing partial truckload amount-- to achieve a more favorable threshold of responsibility relating to freight costs. If this situation applies, the customer's liability for freight charges will be decreased according to the revised quantity's percentage of a full truckload quantity, as defined above. Any additional mileage charges, stopover costs, etc., not specifically pertaining to the original order amounts will be the sole responsibility of the customer.
- V. **Back Orders:** Aquamine will ship, freight free to the customer, any item submitted on any original freight free order which must be back-ordered due to its unavailability at the time of shipment. The responsibility for these back order shipments will be limited by the following:
 - A. Any back ordered quantity must be representative of normal Aquamine product, as listed in the current Aquamine catalog. Any items not listed in the catalog, or any items in said catalog designated as "Special Order Only" will be considered as special order items and will not apply.
 - B. Any items back ordered from an original order shipment because of the necessity to ship according to the customer's timetable (i.e. emergency shipments, etc.) and not Aquamine's normal lead times for production will be considered extraneous circumstances and, as such, will not apply to the standard back order shipment policy.
- VI. **LTL Pipe Shipments:** Any orders for Aquamine pipe which do not meet the requirements, as stated above, for full truckload status, may ship LTL on common carrier transport at the customer's request, in lieu of hiring a full truck and having the customer incur a full truckload freight cost. The following rules govern such LTL pipe shipments:
 - A. For any damages resulting from LTL shipments of Aquamine pipe by common carrier, it will be the customer's responsibility to file any and all claims with any third party (i.e. the carrier) for such damages, regardless of whether the original shipping status of said orders was "Collect" or "Prepaid".
 - B. All LTL pipe shipments will be subject to a \$25 surcharge per order to accommodate additional handling and packaging costs incurred by Aquamine. For single pack orders, this amount will be reduced to \$10.
- VII. **Partial Pack Shipments:** Any order amounts for Aquamine pipe which do not constitute even "Fast Pack" quantities, as defined in the current Aquamine catalog will be subject to a \$35 per pack "Broken Pack" surcharge. This amount will be charged for each pack on each order, which fails to meet the standard packaging criteria. The broken pack charge will be calculated and assessed in addition to any LTL pipe shipment surcharge.

JOB/OWNER

System No. _____

Location _____

CONTRACTOR

Submitted By _____

Date _____

ENGINEER

Spec Sect _____ Para _____

Approved _____

Date _____

Terms and Conditions/Warranty

Terms and Conditions of Sale

1. **Prices** quoted are subject to change at any time unless specifically stated within the price quotation.
2. **Force Majeure:** Aquamine, LLC shall not be liable for any delay or failures in making delivery where occasioned by strikes or differences with workmen or by any causes beyond the control of Aquamine, LLC, such as but not limited to, fires, floods, accidents, action of any government authority, or shortages of labor, raw materials, production facilities or transportation.
3. **Product Changes:** Aquamine, LLC reserves the right to alter, modify, or redesign its products without liability for obsolescence.
4. **Taxes:** All federal, state or local sales or use of similar taxes shall be for the Customer's account.
5. **Terms: Pipe and fittings, solvent, lubricant and other accessories:** Our standard terms are net 30 days. The seller reserves the right to charge 1½% monthly service charge (or the maximum permitted by law), of any past due, unpaid balances.
6. **List Price: Discount or Freight Changes:** List prices of pipe, fittings, etc., discounts and freight terms are subject to change without notice.
7. **Order Acceptance or Rejection:** Aquamine, LLC reserves the right to accept or reject any order. Possession of a price list does not constitute an offer to sell.
8. **Credit Approval:** Customer credit approval is required prior to any shipments. Should customer's financial responsibility become unsatisfactory, cash payments or satisfactory security may be required prior to delivery.
9. **Mode of Shipment or Packaging:** Aquamine, LLC reserves the right to ship orders at the most economical rate. Where customer requests special packaging or handling, the additional cost will be billed to the customer.
10. **Damage, Loss or Shortage Claims:** Upon receipt of order, customer must check for accountability and acceptability of goods. Any damage, loss or shortage should be reported to the driver and noted on his billing papers.

In the event that a common carrier is retained by Aquamine, LLC on Customer's behalf to deliver shipments to customer's requested point of delivery, the risk of any damage or loss to said shipment shall pass to the Customer upon delivery of the shipment by Aquamine, LLC to the carrier even though Aquamine, LLC may agree to be responsible for the costs of shipment. Shipments must be inspected for damage or loss or shortage upon receipt by consignee prior to acceptance from the carrier. Any damage or loss claims must be made to the carrier. Aquamine, LLC will not be liable in any manner for damage or loss caused to a shipment by a common carrier. Shortage of material claims regardless of "mode of shipment" must be submitted in writing to Aquamine, LLC within 30 days of invoice date.

11. **Cancellation:** Non-Standard or customer produced pipe and/or fittings are not subject to Customer's cancellation once production has begun.

12. Non-Standard Products:

Definition A. Piping: This is a piping product which the plant servicing the customer has the capability of producing but does not inventory, or does not have the capability of producing. In these instances, the customer should check for availability and minimum quantity required to process order.

Definition B. Fittings: As defined on the price pages, or those "welded-up" especially for the Customer. Fittings not shown by Aquamine, LLC which must be specially fabricated must be submitted for consideration, advising quantity and pertinent details, through the District Sales Office for availability and pricing.

13. **Returned Materials:** Forward individual request to the Aquamine, LLC Office. Materials cannot be returned without prior approval and written authorization issued by appropriate Aquamine, LLC Personnel. Material returned without prior approval and written authorization will not be accepted at the plant. A restocking charge and freight costs of returned material (and out-freight if applicable) will be charged to the account of the customer.

In addition, the Aquamine, LLC Quality Control Department will determine acceptability of returned material for restocking and resalability. Credit will be issued on resalable material only.

14. **Delivery:** Quoted deliveries are based on estimates at the time of quotation. Aquamine, LLC will devote its best efforts to meeting delivery schedules but assumes no liability for additional costs or damages resulting from late deliveries.

15. Warranty and Disclaimers:

A. Standard Product Warranty: Aquamine, LLC only warrants to replace, without charge, those of its pipe products (lengths, accessories and fittings), including well products, proven to have manufacturing defects within six (6) months of the date of delivery thereof (or, in the case of well products within six (6) months of the date of delivery or prior to the date of initial movement at the drilling site of such well products in order to commence installation, whichever date shall first occur); provided, however, that Aquamine, LLC has first been given an opportunity to inspect the product alleged to be defective in order to determine if it meets Aquamine, LLC specifications and if the handling, installation, and operating conditions have been satisfactory and in accordance with acceptable practices. Products sold by Aquamine, LLC which are manufactured by others are warranted only to the extent and limits of the warranty of the manufacturer. Owing to the widely varying conditions under which Aquamine, LLC products are installed and used, this company cannot be and is not bound, and no person is authorized to bind this company, by any further warranty whatsoever.

B. Non-Standard Product Warranty: Aquamine, LLC only warrants to replace, without charge, those non-standard pipe and well products proven to be defective only with respect to dimensional requirements within six (6) months of the date of delivery thereof (or, in the case of well products, within six (6) months of the date of delivery or prior to the date of initial movement at the drilling site of such well products in order to commence installation, whichever date shall first occur); provided, however, that Aquamine, LLC has first been given an opportunity to inspect the product alleged to be dimensionally defective in order to determine if it meets Aquamine, LLC dimensional specifications. Products sold by Aquamine, LLC which are manufactured by others are warranted only to the extent and limits of the warranty of the manufacturer.

C. Solvent Weld Pipe Disclaimer for Both Standard and Non-Standard Products: Because Aquamine, LLC cannot be assured that solvent weld pipe will be installed by persons fully acquainted with the proper installation techniques involved and the limitations upon such techniques caused by variations in installation conditions, AQUAMINE, LLC DOES NOT WARRANT AND WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY EXPENSES, DAMAGES OR LOSSES WHATSOEVER CONNECTED WITH OR GROWING OUT OF OR CAUSED BY THE FAILURE OF ANY SOLVENT WELD JOINT OR BY DEFECTIVE SOLVENT USED IN MAKING ANY SUCH JOINT. This disclaimer does not apply to factory-made solvent welds.

D. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, ORAL OR WRITTEN, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL AQUAMINE, LLC BE RESPONSIBLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY KIND INCLUDING, WITHOUT LIMITATION, ANY EXPENSE FOR REMOVAL OR REINSTALLATION RESULTING FROM ANY DEFECT, INCLUDING ANY DIMENSIONAL DEFECT INVOLVING NON-STANDARD PRODUCTS. THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE FOR THE REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCTS AS PROVIDED HEREIN. THE BUYER AGREES THAT NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, INJURY TO PERSON OR PROPERTY OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO HIM.

This warranty shall not apply to any product which has been subject to misuse, negligence or accident, which has been repaired or altered in any manner outside of Aquamine, LLC factory or which has been used in a manner contrary to Aquamine, LLC instructions or recommendations. Aquamine, LLC shall not be responsible for design errors due to inaccurate or incomplete information supplied by Buyer or its representatives.

16. This agreement shall be governed by, and interpreted according to, the laws of the State of Delaware.
17. The foregoing terms and conditions constitute the entire understanding between the parties hereto and supersedes any or all prior representations, agreements or understandings, if any, whether oral or written, relative to products delivered hereunder. In the event that any of the terms of any purchase order of the customer conflict with the terms and conditions set forth herein, the general terms and conditions shall govern. No modifications hereof shall be effective unless made in writing on a subsequent date hereof and executed by Aquamine, LLC.

EFFECTIVE

JUNE 15, 2007

For complete contact information, visit www.victaulic.com

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