



CREDIT APPLICATION (rev. 2/2022)

501 Main Street, Utica, New York 13501

Toll Free: 800-828-4211 • Facsimile: 315-797-0206

2 North Floral Ave., Binghamton, New York 13905

Toll Free: 800-833-3525 • Facsimile: 607-798-0676

Please return to our Credit Manager: Gail Pinkerton Phone: 315-235-2665 E-Mail: gpinkerton@pacemakersteel.com

YOUR ESTIMATED CREDIT REQUIREMENTS: [] MONTHLY \$ _____ [] YEARLY \$ _____

BUSINESS NAME: _____

BILL TO ADDRESS: _____

SHIP TO ADDRESS: _____

TELEPHONE: _____ FACSIMILE: _____

E-MAIL ADDRESS: _____

TYPE OF BUSINESS: _____ DATE ESTABLISHED: _____

[] CORPORATION [] PARTNERSHIP [] INDIVIDUAL [] OTHER: _____

FEDERAL ID#: _____ SOCIAL SECURITY: _____

PRESIDENT: _____ VICE PRESIDENT: _____ SECRETARY: _____

ACCOUNTS PAYABLE CONTACT: _____

INDIVIDUALS PLEASE PROVIDE: DATE OF BIRTH: _____ HOME ADDRESS: _____

BANK REFERENCE:

NAME: _____ CONTACT: _____ PHONE: _____

ADDRESS: _____

BUSINESS/TRADE REFERENCES: (Please provide at least one Steel or Piping Supplier)

NAME: _____ PHONE: _____

FAX: _____ E-MAIL: _____

ADDRESS: _____

NAME: _____ PHONE: _____

FAX: _____ E-MAIL: _____

ADDRESS: _____

NAME: _____ PHONE: _____

FAX: _____ E-MAIL: _____

ADDRESS: _____

Terms and Conditions of Sale

- 1. Acceptance. Seller's proposal is an offer to sell. It is not an acceptance of any offer to buy. Seller objects to any other terms and conditions proposed by Buyer that are different than the terms and conditions here stated. All quotations are based on a "subject to prior sale" basis. Seller's payment terms are net 30 days. Issuance of a purchase order shall be deemed acceptance of these terms and conditions.
2. Acceptance of Orders/Confirmations. We accept verbal, facsimile and email orders. Fax and email orders are to be marked confirming by the Buyer. Verbal orders are accepted at the Buyer's risk. If shipment of order is made before written confirmation is received, then such orders must be considered accurate as recorded by our company. Verbal, facsimile and email orders are considered by our company to be source documents.
3. Purchase Order Modification/Cancellation. Buyer cannot modify, cancel, or otherwise alter purchase orders after receipt of purchase order by Seller without Seller's written consent. Any such modification, cancellation or alteration shall be subject to conditions as negotiated at such time, which shall include protection of Seller against loss.
4. No Cancellations for Processed Product. Any and all special orders, sheared product custom cut-to-length orders and/or orders that are modified to Buyers request are considered to be processed and are therefore "non-cancelable" and may not be returned.

5. **Shipment/Delivery.** All "ship" dates are quoted as approximate. Seller shall not be liable for any delay in delivery or failure to deliver caused for any reason in whole or in part beyond our reasonable control including, but not limited to, production schedules or the producing mill, unavailability of materials, labor disturbances, acts of nature and/or transporting difficulties.
6. **Claims for Shortage or Damage.** All claims for shortage or damage must be made within 2 days after receipt of goods by Buyer.
7. **Final Acceptance of Product.** Buyer must provide Seller with written notice of any defect or non-conformity of the product within fifteen (15) days of product delivery. Any failure to notify Seller shall constitute an irrevocable acceptance of the products and admission that you have inspected the materials and that the products and workmanship fully comply with all terms and specifications.
8. **Returns.** Return of any goods requires prior written authorization.
9. **Payment Terms.** Unless otherwise agreed to in writing by Seller's credit division, payment terms are net thirty (30) days from the date of invoice payable in United States dollars or the equivalent thereof. Discounts for payments within ten (10) days from the date of the invoice, when applicable, will be specified on the invoice. Interest will accrue on invoices unpaid after the next due date. Buyer agrees to pay interest at the rate of 1 ½ % monthly (18% annually) on any unpaid/delinquent account balance. If Buyer fails to make payment in full or in part or refuses to pay any applicable price increases or surcharges, Seller shall have the right to: (i) immediately suspend performance and cancel the unfinished portion of the order, or (ii) proceed with the order, given an extension of time for performance as is necessitated by the temporary suspension. Seller shall have right to enforce payment of the full purchase price, including any price increase or surcharge, for products already delivered or in process. Seller shall have the right to employ an attorney to collect the due balance and Buyer agrees to pay Seller's reasonable attorneys' fees and other costs incurred for the collection of any unpaid/delinquent account balance.

In addition to company checks for customers with open terms, Seller does accept the following forms of payment: American Express®, VISA®, MasterCard® and DISCOVER®. Contact our accounting office for all questions regarding setting up an account.

10. **Standards and Tolerances.** Unless specifically agreed to in writing by Seller, all goods sold hereunder shall conform to industry standard variations and tolerances such as those described by ASTM International ("ASTM"), the American Iron and Steel Institute "AISI") and the Society of Automotive Engineers ("SAE").
11. **Rust or Metal Oxide.** Rust or metal oxide forms when metals are subjected to moisture or oxidizing chemicals over a sufficient period of time. Rust will appear white, red/black or green on zinc-coated (galvanized) steel product, other steel products or copper-based product, respectively. We take every precaution to keep the product dry and safe from oxidation during storage and inspect all products for signs of rust before shipping. Product received by the Buyer that shows signs of rust or metal oxide will be addressed by Seller on a case-by-case basis. Seller will only accept return of product with signs of rust or metal oxide if the rust or metal oxide was caused by Seller's handling of the product.
12. **Warranty for Goods.** Seller will replace within the period of time specified by manufacturer's warranty or, if there is no specified period of time, within 30 days from purchase, any goods which are proven defective when properly used for the purpose specified within this agreement, but no claim for labor or damages will be allowed. Claims must be presented in writing within the applicable time period. Claims will not be honored when Buyer replaces goods from a source other than Seller without first receiving written authorization from Seller. THE WARRANTY DESCRIBED IN THIS PARAGRAPH SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
13. **Limitation of Remedies.** Buyer's sole and exclusive remedy against Seller for defective material or claims for shortage or damage shall be as provided in Paragraph 12. No other remedy – including but not limited to, claims for contribution, indemnity, defense costs, incidental or consequential damages for lost profits, lost sales, injury to person (except in the case of consumer goods) or property, or any other incidental or consequential losses – shall be available to Buyer.
14. **Indemnification.** Buyer shall indemnify Seller against any loss, damage, suit, liability or claim (including reasonable attorney fees and costs) caused by acts of Buyer not authorized by this agreement or by any willful or negligent act of the Buyer.
15. **Jurisdiction.** The parties irrevocably submit to the exclusive jurisdiction of any court of the State of New York or federal court of the United States of America, sitting in Oneida County, New York, in any action arising out of or relating to the Buyer's purchase order, Seller's products, or the Terms and Conditions of Sale.
16. **Mediation.** Buyer and Seller will attempt in good faith to resolve promptly through negotiation any dispute arising from or related to this sale. If a dispute should arise, representatives of the Buyer and Seller shall meet at least once and will attempt in good faith to resolve the dispute. For such purpose, Buyer or Seller may request a meeting which shall be held within fifteen (15) days of the request at a mutually agreed upon time and place. The meeting shall be attended by representatives of each party with authority to resolve the dispute. IF BUYER AND SELLER ARE NOT ABLE TO CONDUCT A MEETING WITHIN SAID FIFTEEN (15) DAY PERIOD, OR IF BUYER AND SELLER DO NOT RESOLVE THE DISPUTE WITHIN THIRTY (30) DAYS AFTER THEIR FIRST MEETING, BUYER AND SELLER AGREE TO SUBMIT THE DISPUTE TO MEDIATION. BUYER AND SELLER FURTHER AGREE THAT THEIR PARTICIPATION IN MEDIATION IS A CONDITION PRECEDENT TO ANY PARTY PURSUING ANY OTHER AVAILABLE REMEDY IN RELATION TO THE DISPUTE. Mediation involves each side of a dispute sitting down with an impartial person, the mediator, to attempt to reach a voluntary settlement. Mediation involves no formal court procedures or rules of evidence, and the mediator does not have the power to render a binding decision or force an agreement on the parties. Buyer and Seller agree that the entire mediation procedure will be confidential. Buyer or Seller must give written notice of their desire to commence mediation, and a mediation session must take place within forty-five (45) days after the date such notice is given. Buyer and Seller will jointly appoint a mutually acceptable mediator. If Buyer and Seller are unable to agree upon the appointment of a mediator within seven (7) days after notice of desire to mediate is given, Buyer or Seller may apply to the American Arbitration Association for appointment of a mediator. The mediation shall be held in Utica, New York. Buyer and Seller agree that the expenses of mediation shall be borne equally by both parties.

CONDITIONS OF SALE AND TERMS OF PAYMENT: The undersigned applicant does hereby certify that I am duly authorized on behalf of the applicant to bind the applicant and to execute this Credit Agreement. The information given is correct and complete and authorizes Pacemaker Steel and Piping Co., Inc. to contact the listed references for the purpose of credit worthiness. In consideration for any extension of credit, I/we, either as a single owner or an authorized officer or officers of the corporation or as a partner or partners, hereby agree to the terms hereof. All sales by Pacemaker Steel and Piping Company, Inc. are expressly made subject to the Terms and Conditions of Sale included above and made part of this Agreement. Purchaser also agrees to pay interest at the rate of 1 ½ % monthly (18% annually) on any unpaid/delinquent balance until the account is paid in full. The purchaser also agrees to pay all reasonable attorney fees and other costs incurred for collection of the account. Depending on the credit limit requested and/or response from the references you provide, we reserve the right to request additional financial information in order to make a decision regarding this application.

Terms are Net 30 Days – Any discount available is noted on each invoice.

PRINT NAME: _____ **DATE:** _____

REQUIRED AUTHORIZED SIGNATURE: _____ **TITLE:** _____