

TERMS AND CONDITIONS OF SALE OF CONTINENTAL STEEL AND TUBE COMPANY

1. **PAYMENTS.** Unless otherwise agreed to by Continental Steel in writing, all amounts payable hereunder shall be due to Continental Steel within thirty (30) days of invoice date, time being of the essence. Late payments shall bear interest at the rate of 18% per annum or the highest rate permitted by law; whichever is less. All prices shown are net, and, in addition to the price of goods. Customer shall pay all expenses including taxes, insurance, freight, carriage, and warehousing.
2. **TAXES AND PRICING.** All prices quoted are subjects to change without notice and are exclusive of taxes. Customer shall pay all taxes resulting from transactions, including without limitation occupation, property, excise, sales, or use tax, but excluding any taxes based on the income of Continental Steel. The purchase price, including applicable taxes, shall be subject to increase based on Continental Steel's established price at the date of actual shipment, if shipment is delayed thirty (30) days, or more, beyond the scheduled shipment date, and such delay is caused in whole or in part by circumstances beyond the reasonable control of Continental Steel as provided in paragraph 10.
3. **SHIPMENT.** (a) Scheduled shipment date is an estimate only. On or after the scheduled shipment date, customer shall accept shipment upon notification by Continental Steel; or if customer refuses shipment. Then Continental Steel is authorized to (1) have the goods transported and warehoused, at the customer's expense and risk, which act shall constitute shipment to Customer, in which event, Continental Steel may declare as immediately due all amounts due upon shipment, or, if any amounts are financed by Continental Steel, may declare as immediately due all amounts due upon shipment, or, if, any amounts are financed by Continental Steel, may declare the monthly installment payments to commence thirty (30) days from the date of such shipment to the warehouse, or (2) at Continental Steel's option, defer shipment. (b) Continental Steel may make partial shipments hereunder and may invoice for each such partial shipment separately. Each partial shipment will be deemed to be a separate sale; however, delay in delivery of any partial shipment will not relieve Customer of its obligation to accept delivery of remaining shipments. (c) Continental Steel's shipping weights will govern for each shipment or partial shipment. Should Customer dispute the shipping weight of any shipment or partial shipment, Customer will promptly notify Continental Steel in writing of the reasons for such dispute and provide to Continental Steel all necessary documentation to substantiate the difference.
4. **SHIPPING TOLERANCES.** The goods sold are subject to Continental Steel's published shipping tolerances in effect on the date of order or any then-applicable industry shipping tolerances for the goods if Continental Steel has no tolerances.
5. **TITLE/RISK OF LOSS/INSURANCE.** Title to and risk of loss of the goods shall pass from Continental Steel to the Customer when the goods or component parts whether manufactured by Continental Steel or other supplier are placed in the possession of the carrier for shipment to Customer. Customer shall provide insurance to be for no less than the total amount owing to Continental Steel with loss first payable to Continental Steel.
6. **ACCEPTANCE OF GOODS.** Customer shall inspect or test all goods upon receipt. Customer shall be deemed to have affected final acceptance of the good within fifteen (15) days from the date of initial shipment, unless written notice is received by Continental Steel within such period. In any case, the goods will be deemed accepted on the date when used or otherwise placed in commercial operation.
7. **WARRANTY.** (a) Continental Steel warrants that title to the goods sold shall be free from any encumbrance, and will conform to the description contained on Continental Steel's invoice. (b) CONTINENTAL STEEL DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. THERE ARE NO REPRESENTATIONS OR WARRANTIES EXCEPT AS PROVIDED IN WRITING SIGNED BY AN AUTHORIZED OFFICER OF CONTINENTAL STEEL. (c) Customer is responsible for the designation and selection of product sold by Continental Steel. Customer shall hold Continental Steel harmless and indemnify and defend Continental Steel (including its affiliates, assigns, directors, officers, employers, agents, and representatives) for any claims arising out of or relating to the design, specification, or use of product(s) sold by Continental Steel to Customer.
8. **REMEDY.** Continental Steel's sole responsibility and liability and Customer's exclusive remedy under this agreement shall be limited to the repair or replacement of goods (f.o.b. Continental Steel's shipping point) not conforming to the warranty, or, at Continental Steel's option, to the return of the goods and refund of moneys paid thereon, without interest, provided Customer is not in default hereunder. IN NO EVENT SHALL CONTINENTAL STEEL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES OR ATTORNEYS' FEES. Continental Steel's obligation hereunder is subject to receipt of written notice of defect from Customer within thirty (30) days after such alleged defect shall be reasonably apparent to Customer.
9. **RETURNS.** Returned goods will be accepted only if Continental Steel has given prior written consent. Handling, inspection, restocking, and invoicing charge also may be assessed against Customer. All returns allowed must be shipped at Customer's expense and must be in excellent resale condition. Material cut to Customer's specifications is not returnable.
10. **DELAY RO NONPERFORMANCE.** Continental Steel shall not be liable for failure or delay in performance hereunder due in whole or in part o strikes, work stoppages, fires, acts of terrorism, accidents, wars, rebellions, civil commotion, public strife, acts of any government, whether legal or otherwise, acts of public enemies, forces majeure, or qualified labor, or any other causes beyond Continental Steel's reasonable control; this specifically includes delays or inability to obtain product because of the actions of Continental Steel's suppliers.
11. **DEFAULT.** In the event of Customer's refusal to accept shipment or other default, Continental Steel, at its discretion and option, shall be entitled to retain all money paid by Customer on account as liquidated damages. If Customer fails to make any payments when due, or if there is a breach of any covenant or agreement by Customer, or if Continental Steel deems itself insecure, then Customer shall be deemed in default and Continental Steel shall have, at its option, the right to take immediate possession of the goods, and/or declare all unpaid amounts immediately due and payable and/or suspend shipments to Customer. Continental Steel shall be entitled to set off any amount owed by Customer or any of Customer's related entities against any amount payable to Continental Steel in connection with any unpaid moneys due to Continental Steel. Continental Steel shall have all the rights and remedies of a secured party under the Uniform Commercial Code in addition to all other rights as established herein, which rights and remedies shall be cumulative. Waiver by Continental Steel of any breach or default shall not constitute a waiver of any subsequent breach or default.
12. **EQUIPMENT.** (a) Any equipment including jigs, dies, and tools, (which Continental Steel acquires for use exclusively in the production of goods for Customer) will be and remain Continental Steel's possession and control; and any changes by Continental Steel are permissible. (b) Any material or equipment owned or furnished by Customer to Continental Steel will be carefully handled and stored by Continental Steel while in Continental Steel's possession. When for eighteen (18) consecutive months no orders acceptable to Continental Steel are received from Customer for goods to be made from any such equipment or materials, Continental Steel may, be written notice to Customer, request Customer to make disposition thereof at Customer's expense. If Customer fails to comply with such notice, Continental Steel may make such use or disposition of said material or equipment as it desires, without liability or obligation to Customer.
13. **CANCELLATION.** Upon receipt of written notice from Customer, Continental Steel shall cancel any orders as instructed, subject to Continental Steel's (or its subcontractors) right to continue processing raw or finished material to the point at which processing can be halted with the least disruption and cost to Continental Steel. Customer shall be responsible for all costs associated with the cancellation and completion of processing of material.
14. **ACCEPTANCE.** These Terms and Conditions shall be deemed binding on Customer by its purchase of products from Continental Steel. These Terms and Conditions may only be modified if in writing and signed by an authorized office of Continental Steel; each of these terms and conditions shall remain in effect unless the provision(s) are explicitly contradicted by the aforesaid writing. If customer submits a from with contrary terms or conditions, such order

shall be considered as confirmation only and in no way amend, prevail over, supplement, or supersede any provision herein. These TERMS AND CONDITIONS may be superseded or revised by Continental Steel ANNUAL TERMS AND CONDITIONS.

15. **GENERAL.** Continental Steel may assign its rights and obligations under these Terms and Conditions. If Customer changes its corporate status, both Customer and its successors continue to be bound by these Terms and Conditions of Sale, but Continental Steel reserves its rights under paragraph 11. No prior representation, affirmation, or agreement shall be enforceable unless set forth herein.
16. **NUCLEAR USE.** The products covered by these Terms and Conditions and sold by Continental Steel are not intended for application in connection with the use or handling of nuclear material or the construction or operation of a nuclear installation. Customer shall not use these products for such purposes, or permit others to use these products for such purposes unless an authorized officer of Continental Steel agrees to such use in writing. If any such use occurs without Continental Steel's written agreement, Continental Steel disclaims all liability for any nuclear or other damages, injury or contamination, and Customer shall protect, defend, and indemnify Continental Steel, Continental Steel's affiliates and director, officers, employees, agents, and representatives of Continental Steel and its affiliates from and against any and all claims, losses, damages, costs, actions, judgments, expenses and liability of every kind and nature whatsoever (including, without limitation, attorney's fees and costs and expenses of defense) which, either directly or indirectly, are in any way connected with, arise out of or result from such use.
17. **DISPUTE RESOLUTION/GOVERNING LAW.** Any and all disputes between Continental Steel and Customer shall be determined subject to Florida's law, and its state or federal courts shall have exclusive jurisdiction. The parties hereby agree to the personal jurisdiction of the Florida courts, and that attorney's fees and costs shall be awarded to the prevailing party in any litigation. Customer must institute any action against Continental Steel within one year after Customer's claim arises, or such claim shall be barred notwithstanding any statutory limitations to the contrary.