

# Peerless Aerospace Fastener Corporation

## General Terms and Conditions of Quotation and/or Sale to Customers

### 1) General

- a) The following terms and conditions shall be, except as otherwise expressly set forth herein, the sole terms and conditions governing the sale of goods by Peerless Aerospace Fastener Corporation ("Supplier") and/or any quotation made by the Supplier to the purchaser of such goods ("Customer").
- b) The Supplier, Customer, description of goods and quantity being purchased, delivery information and other goods information applicable to the sale of the goods shall be set forth in Customer's purchase order (the "PO") submitted to Supplier. These Supplier terms and conditions are incorporated into and made a part of each such Customer PO.
- c) All quotations are valid for a period of thirty (30) days. Any quote made by the Supplier is subject to alteration and/or withdrawal by the Supplier's at any time until the PO has been mutually agreed to in writing by both the Customer and the Supplier.
- d) All quoted items are subject to prior sales. If such events occur within the period of quote validity, the Supplier will notify the Customer as soon as possible from the date their PO is received.

### 2) Scope of Agreement

- a) Upon either the Supplier's written acceptance of the PO or acceptance by Customer of goods furnished by Supplier in response to a PO, the PO, any mutually agreed upon terms and these terms and conditions shall be the complete and final agreement (the "Agreement") between Supplier and Customer in regards to the sale of goods identified in the PO.
- b) No preprinted, form language or invoked references contained in the PO shall be part of the Agreement, unless specifically agreed to by Supplier. Supplier's acceptance of any PO is expressly made conditional upon Customer's acceptance of these terms and conditions, and Supplier expressly objects to any additional or different terms and conditions, whether set forth in the PO or otherwise.
- c) Supplier will not be deemed to have waived these terms and conditions if it fails to object to provisions contained in Customer's PO or other forms. Any other documents, or referenced materials not expressly included as part of the Agreement as provided above do not form part of the contract between Customer and Supplier. The Agreement, including these terms and conditions, may not be cancelled or modified except in writing signed by both Supplier and Customer.

### 3) Customer Purchase Orders

- a) Supplier reserves the right to reject any customer issued purchase order for any reason. Pricing of quoted items is subject to change without notice unless agreed to otherwise in writing by Supplier and Customer. After acceptance of a Customer PO, any changes shall be subject to Supplier consent and possible price adjustment or other conditions as Supplier may impose.
- b) Customer orders which have been quoted as being supplied in whole or part, based on outside purchases made by Supplier to specifically support Customer are subject to Non-Cancellation and No Return requirements, unless specifically agreed to in writing by Supplier. Other request for cancellation / return are subject to Supplier approval and may result in restocking fees up to 100% of the total Customer purchase price for non-defective goods.

### 4) Inspection / Acceptance / Rejection

- a) Customer shall perform inspection of goods received from Supplier for conformity and make any claims of nonconformity, shortage, or rejection no later than thirty (30) calendar days from the date of original invoice. Any claims for rejection shall be submitted to Supplier along with specific reasons for said rejection. Customer's failure to inspect or reject goods within thirty (30) calendar days from the date of original invoice shall be deemed by Supplier to constitute Customer's acceptance of goods and waiver of any nonconformity or defect.
- b) Customer agrees that if the quantity of goods, as determined by actual weight, is within three percent (3%) of the quantity shown on Supplier packing list, Customer shall be deemed to have received the quantity shown on the packing slip and shall pay for such amount.
- c) All rejection claims shall be made by calling Supplier at (631) 962-2217 or in writing including: invoice number, part and lot numbers, quantity being rejected, specific details of the rejection and any other

details as Customer deems appropriate or as requested by Supplier. Samples may be requested by Supplier for the purposes of verification of reported nonconformance to material specifications.

- d) For all claims of goods not conforming to applicable specifications Supplier shall seek verification of the stated nonconformance from the original goods supplier and/or Supplier selected testing laboratory. Goods confirmed to be noncompliant to applicable specifications shall be issued a Return Material Authorization (RMA) number and will be subject to replacement or credit at Supplier's sole discretion.
- e) In no cases will any goods be accepted for return without prior Supplier approval and issuance of an RMA number. Supplier shall not be held accountable or liable in any way for any goods returned by Customer without a valid Supplier RMA number. In addition, International Customers will also be required to return a signed copy of Suppliers "Foreign Return Material Authorization Request" form, which outlines specific requirements for international shipments, prior to a RMA number being issued by Supplier. All approved goods returned by Customer to Supplier shall clearly indicate on the package and/or shipping documentation the RMA number issued by Supplier.
- f) In all cases, goods being returned to Supplier must be in original, unopened packaging and only lot traceable goods to what was originally delivered by Supplier will be accepted for return. Under no circumstances will Supplier accept goods that have been repackaged and/or that can not be fully traced to what was originally provided by Supplier.

### 5) Delivery

- a) Lead times and delivery dates do not include transportation time and are estimates only, unless otherwise specified. Notwithstanding any express provision on delivery times, a delay in delivery will not result in payment of damages, nor allow cancellation of the Agreement. The cost of transportation and risk of loss shall be borne by Customer unless expressly agreed to in writing by Supplier.
- b) Unless expressly indicated otherwise by Customer and agreed to by Supplier, goods shall be transported by commercial carriers (e.g., UPS, Federal Express, etc...) from Supplier's place of business to Customer's specified delivery location. Requests by Customer to expedite delivery of delayed, goods, resulting in increased transportation charges, shall be borne by the Customer.

### 6) Force Majeure

- a) Supplier will not be liable for any delays or failure to perform any obligations under any PO or Agreement, if the performance of the same is in whole or part delayed, prevented or hindered by an event of force majeure such as but not limited to: accidents, labor disputes or disruptions, strikes, shortages of labor, materials, mechanical failure of usual sources of supply, fuel or power, fires, floods or other acts of God, acts of terrorism or war, acts or omissions of Customer, restrictions imposed by law or any rules or regulations there under, priorities required, requested or granted for the benefit of the government or any other matter beyond Supplier's control. Further as a result of force majeure events, Supplier shall be entitled to delay shipments and/or cancel this agreement with Customer remaining liable for goods and/or services provided.

### 7) Payment

- a) Prices are established net of tax and shall be invoiced according to the conditions of the Agreement or other mutually agreed upon contract. Unless otherwise agreed, payment terms are net thirty (30) calendar days from the date of invoice. In case of any breach of contractual agreement terms, the total amount due by Customer shall be immediately payable.
- b) Any unpaid invoice amounts, in excess of the terms indicated may be subject to 1 1/2% monthly service charge (18% annual), where lawful, plus attorney and/or collection agency fees, should payment collection activities be required.
- c) If Customer account becomes delinquent for non-payment, Supplier may (i) suspend all future shipments to Customer until all payments have been made, (ii) ask for a guarantee of payment for future payments (letter of credit, Credit Card, etc...), (iii) cancel the concerned PO, and all outstanding POs, with written prior notice of Customer's failure, not being cured within the following ten (10) calendar days.

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- d) Transfer of ownership of the goods from Supplier to Customer shall be upon full payment of the invoice.
- 8) **Termination**
- a) In the event Customer fails to perform any of its obligations or fails to make payments in a timely manner as required by the terms of the Agreement, and Customer does not provide a guarantee of future payments to the satisfaction of Supplier, undergoes a change of control of Customer ownership, and/or if Customer or Supplier is subject to bankruptcy or becomes insolvent, Supplier may terminate any and all of its obligations under the PO and the Agreement.
- b) Customer may not terminate this agreement unless agreed to in writing by Supplier and for any such agreed cancellation, Customer may be liable to pay Supplier restocking or cancellation fee's up to 100% of the of the agreed Customer purchase price for the goods.
- 9) **Warranty / Liability**
- a) All goods provided by Supplier under this Agreement are sold with only the following warranty: Suppliers obligation under this warranty is limited to replacing or refunding the invoice value of the goods that were charged to the Customer, at Supplier's option. Under no circumstances shall Supplier be held liable for any other claims for compensation and/or damages, loss of property or equipment, loss of profits or revenue, injury directly or indirectly arising from the installation or use of its parts, resulting from delivery delays and/or defective materials.
- b) Supplier's warranty and liability shall be subject to the lot traceability to be performed by Customer. Customer shall keep lot traceability records for the goods to ensure that lots provided by Supplier can be traced through Customer's manufacturing processes and/or Customer's clients and/or Customer's subcontractors.
- c) **THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED (INCLUDING SPECIFICALLY, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS), AND ALL OTHER OBLIGATION AND LIABILITY ON THE PART OF THE SELLER. SELLER SHALL NOT BE LIABLE IN ANY INSTANCE FOR CONSEQUENTIAL OR SPECIAL DAMAGES FOR MORE THAN THE REPLACEMENT VALUE OF THE SUPPLIED MATERIALS, OR REFUND OF THE PURCHASE PRICE ON DEFECTIVE GOODS**
- 10) **Assignment**
- a) Customer may not assign the Agreement to a third party without the prior written consent of Supplier. Further Customer may not assign to any party a right to purchase quoted or contract goods stipulated in the Agreement, at Supplier and Customer agreed upon terms, unless expressly approved in writing by Supplier.
- 11) **Foreign Export Trade / Compliance**
- a) Customer understands and agrees that goods sold, furnished technical data or services provided hereunder may be subject to export and other foreign trade controls restricting resale and/or transfers to other countries and parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States or countries in Europe. Customer agrees that no goods, technical data or services provided hereunder will be sold, re-exported or transmitted except in full compliance with all applicable governmental laws and regulations. Customer agrees to and assumes all responsibility for obtaining any required licenses related to the export or re-export of and goods, technical data or services associated with the PO and/or Agreement, including any licenses for their export from and their import into any country.
- b) Customer further agrees that it will not export, re-export or transmit any of the goods, technical data or services of U.S. origin or containing U.S. content provided hereunder to any country, government, person, entity, organization or end-user subject to U.S. foreign trade restrictions and, in particular, that it will not export or re-export or transmit the goods, technical data or services to:
- i) any country to which such goods, data or services may not be transmitted without prior specific authorization of the Directorate of Defense Trade Controls, U.S. Department of State, pursuant to the International Traffic in Arms Regulations (22 C.F.R. Parts 120 through 130); or
- ii) any country to which such goods or data may not be transmitted without prior specific authorization of the Bureau of Industry and Security, U.S. Department of Commerce, pursuant to the Export Administration Regulations (15 C.F.R. Parts 730 through 774); or
- iii) any country, government, person, entity, organization or end-user against which the United States government has imposed any other foreign trade restrictions, including, without limitation, economic sanctions or an economic embargo or the denial of export privileges.
- c) Any violation of this Section, as determined solely by Supplier or duly recognized governmental agency, shall be deemed a material breach of this Agreement and Supplier may terminate any and all of its obligations under this Agreement.
- d) By engaging in this Agreement, Customer hereby agrees that any provided "Ship To" information provided is accurate and that they further agree to indemnify Supplier and hold them harmless against any and all fines, penalties, liquidated damages or other actions taken by any government agency should any redirection or re-export of goods occur in violation of any applicable law or regulation.
- 12) **Jurisdiction**
- a) Any dispute arising out of or in conjunction with the Agreement, or delivered goods shall be submitted to the Courts of the State of New York, which shall have sole jurisdiction regardless of the place of delivery to Customer, unless all parties agree to arbitration proceedings, whose terms are agreed to in writing by all parties involved.
- 13) **Indemnity**
- a) Customer shall indemnify, defend and hold Supplier harmless and its officers, directors, employees, agents, (collectively "Representatives"), successors and assigns, affiliates and their respective Representatives, successors and assigns and affiliates against any and all claims, actions, suits, liabilities, losses, damages, fines, penalties, fees, costs and expenses, including, without limitation, reasonable attorney's fees and costs and other litigation fees, costs and expenses (collectively "Losses"), resulting from or in connection with (i) any claim of infringement of any patent or any other intellectual property rights in connection with the processing of any goods for Customer pursuant to Customer's instructions and specifications regardless whether such claim is valid, (ii) designs, drawings or specifications given to Supplier by Customer, (iii) defective materials, or (iv) the improper incorporation, assembly, use, processing, storage or handling of goods by Customers or its clients and sub-contractors.