



Peak Beam Systems, Inc.
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PEAK BEAM SYSTEMS, INC. TERMS AND CONDITIONS OF SALE

Revised 2/27/12

- 1. ORDERING PROCEDURE:** Buyer will, from time to time, order products from the Seller by issuing a Purchase Order, either on Buyer's company order form or by completing and returning a Credit Card Authorization Form, making prepayment via Wire Transfer, or making prepayment via Company Check. Upon issuing a Purchase Order, the Buyer agrees that the Seller shall commence to perform the services and/or provide the goods or service deliverables described in the Purchase Order, in accordance with the applicable Quote from the Seller, or Distribution Agreement, or Scope of Work. Upon acceptance of a Purchase Order by the Seller, a contract for sale has been made between the Buyer and Seller and the Buyer is bound by the provisions of the Purchase Order and accepts full financial responsibility.
- 2. PRICES:** Orders are billed at prices in effect at time of shipment. Unless otherwise stated in writing and signed by an authorized company representative, all prices are FOB Seller's factory in Edgemont, PA, U.S.A. and are subject to change without notice. All quotations are subject to correction of clerical errors and errors in calculation.
- 3. PAYMENT TERMS:** All orders are to be prepaid unless other arrangements have been made. Delinquent accounts are subject to a service charge of 1 1/2% per month. A minimum charge of \$75.00 will be imposed upon dishonor of any check tendered in payment of goods purchased from Peak Beam Systems, Inc. Additional costs and expenses (including attorney's fees) incurred in the collection of any funds due Peak Beam Systems, Inc. shall be paid by the Buyer. If sending payment by bank wire transfer, Buyer is responsible for all bank wire fees.
- 4. ORDER CANCELLATIONS:** Once accepted by Seller, Purchase Orders may not be cancelled, reduced, changed or suspended by Buyer without Seller's written consent and payment of reasonable and proper cancellation charges determined by Seller. In the event of cancellation by Buyer, Buyer shall pay Cancellation Charges in an amount equal to twenty percent (20%) of the Purchase Price to compensate Seller for its overhead and lost profit.
- 5. SHIPMENTS:** Shipment dates are approximate and are based upon prompt receipt of all necessary information. Seller shall not be liable for delays in delivery, failure to manufacture, or failure to deliver due to causes beyond its reasonable control.

Although Seller is not liable for damages to goods suffered in transit after exit from its factory, it is suggested that if these goods are delivered damaged, they not be accepted by the Buyer until the carrier's agent has noted on the Freight Bill that nature and extent of the damage. In the same manner, if any goods are lost in transit, shortages should be noted on the Freight Bill. If there should be damage or loss of such a nature that it could not be detected until the goods were unpacked, the carrier's agent must be called at once to make an inspection. Buyer should file a concealed damage claim stating the condition of the goods when examined. Claims for goods damaged in transit must be referred to the carrier's claims department.

Freight and insurance charges, paid by Seller and added to the bill of the Buyer are subject to a handling charge. A document preparation charge may be added to non-U.S. shipments.
- 6. WARRANTY:** Seller warrants that for a period of 12 months from the date of purchase that its products (except as listed below) shall be free of defects in materials and workmanship under normal use and that Seller shall, at its option, repair or replace any defective product upon the prepaid return of the product to its factory. In the case of any lamp, light bulb or other form of light source and the battery, the warranty period shall be 90 days.

The warranty only applies to defects in materials and workmanship and not to damage incurred in shipping or handling, damage due to abuse, misuse, alteration or improper application of the equipment. Damage incurred in return shipping and handling due to improper packaging is not covered.

In order to be eligible for coverage under the warranty, the equipment must have the original label with a legible serial number attached.

The foregoing warranty is in lieu of any and all other warranties whether expressed or implied. This warranty contains the entire warranty. Seller authorizes no other person or organization to modify this warranty or to assume for it any other warranty or liability concerning its products. The remedies of the Buyer set forth hereon are exclusive and the liability of Seller whether arising out of contract, negligence, strict tort, any warranty or otherwise shall not, except as expressly provided, exceed the price of the goods upon which such liability is based.

In no event shall Seller be liable for direct, indirect or consequential damages, loss of anticipated profits, loss of time or any other losses incurred by the Buyer in connection with the purchase, installation, operation or failure of operation of the product.
- 7. RETURNS:** Returns of non-defective goods will only be accepted from the original Buyer within 90 days of sales and must be in "like new" condition. These returns are subject to a minimum restocking charge of 20% plus freight out and must be returned freight prepaid. Custom manufactured equipment is not returnable.

All returns must have a Return Materials Authorization (RMA) number. RMAs may be obtained by calling 1-610-353-8505 or E-mailing techsupport@peakbeam.com.
- 8. REPAIRS:** All returns for repair must have a Return Materials Authorization (RMA) number. RMAs may be obtained by calling 1-610-353-8505 or E-mailing techsupport@peakbeam.com. Products in need of repair should be sent to Seller freight prepaid in accordance with the RMA form along with return shipping instructions and a brief description of the problem.

Domestic warranty repairs will be returned to Buyer freight prepaid by Seller's choice of freight carrier. The Buyer will pay any additional freight costs for special handling or expedited freight. Non-Domestic warranty repairs will be returned to Buyer by the Buyer's choice of freight carrier with the freight charges paid by the Buyer.
- 9. LIMITATION OF LIABILITY AND COMMENCEMENT OF LEGAL ACTIONS:** In no event shall Seller or its subcontractors be liable for any loss, damage, cost of repairs, incidental, indirect, punitive or consequential damages of any kind, including, but not limited to loss of use of facilities and equipment or loss of profit, for any reason, whether based upon any warranty, or arising in contract, tort, negligence or strict liability or otherwise arising in connection with the design, manufacture, sale, use or repair of the Products sold hereunder. Nor shall Seller or its subcontractors be liable to Indemnify owner and/or contractor for claims for such consequential, incidental, indirect, or punitive damages. Further, in no event will Seller be liable to Buyer for more than the purchase price of the Products sold hereunder. Any action, regardless of form, arising out of this contract must be commenced by Buyer within one (1) year from the date of shipment.
- 10. FORCE MAJEURE:** In the event of the occurrence of contingencies beyond the reasonable control of either or both of the Parties, including without limitation, war, fire, explosion, flood, strike, labor disputes, accident, breakdown, emergency repair or maintenance, riot, act of governmental authority, acts of God, or any other event interfering with the production, supply, transportation, or consumption of the goods sold hereunder, or with the supply or consumption of any raw material used in connection therewith, the obligations of the parties to perform hereunder shall be suspended, and quantities so affected may be eliminated from the contract without liability. The Party invoking Force Majeure hereunder shall give prompt notice of, and utilize best efforts to terminate or remove, the Force Majeure conditions.
- 11. EXPORT SALES:** If transaction involves the export of items (including, but not limited to, commodities, software or technology) subject to the Export Administration Regulations, such items were exported from the United States by Seller in accordance with the Export Administration Regulations.

Buyer agrees that it will not divert, use, export or re-export such items contrary to United States law. Buyer expressly acknowledges and agrees that it will not export, re-export, or provide such items to any entity or person within any country that is subject to United States economic sanctions imposing comprehensive embargoes without obtaining prior authorization from the United States Government.

Buyer also expressly acknowledges and agrees that it will not export, re-export, or provide such items to entities and persons that are ineligible under United States law to receive such items, including but not limited to, any person or entity on the United States Treasury Department's list of Specially Designated Nationals or on the United States Commerce Department's Denied Persons List, Entity List, or Unverified List.
- 12. GOVERNING LAW:** The laws of the Commonwealth of Pennsylvania shall govern the ability, effect and performance of this Policy. The Court of Common Pleas of Delaware County, PA will be the exclusive jurisdiction and venue for any and all disputes arising hereunder.