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PEAK BEAM SYSTEMS, INC. TERMS AND CONDITIONS FOR VENDORS

Revised 3/11/19

The following terms and conditions shall apply to all Peak Beam Systems, Inc. (PBS) purchase orders:

1. **ACCEPTANCE:** Please confirm receipt of a purchase order from PBS (PO) in writing and advise if there are any changes in pricing or specs. If requested delivery date cannot be met, please notify PBS in writing of anticipated delivery date.
2. **PRICES AND QUANTITIES:** All prices are in U.S. Dollars. Unless otherwise noted, prices should be firm fixed prices including all costs to be charged including the articles, their packaging and/or any other costs necessary to the completion of the work on the PO. As PBS is classified as a Pennsylvania manufacturer, all articles purchased (with exception of non-resalable articles like office supplies/equipment) shall be exempt from tax as specified by Pennsylvania state tax law. A copy of PBS's Pennsylvania Tax Exemption Blanket Form is available upon request. Shipments must be the exact amount ordered unless otherwise agreed to by PBS in writing.
3. **TERMS OF PAYMENT:** Payment will be made by PBS 30 days from the date of the invoice or the date the shipment is received, whichever is later, unless otherwise agreed to by PBS. Any early payment discounts will be calculated from the same date. If articles are found to be non-conforming, PBS reserves the right to withhold payment on the non-conforming articles until the non-conformance is corrected by the Vendor to the satisfaction of PBS.
4. **CHANGES / CANCELLATION:** Unless specified otherwise in writing by the Vendor, PBS reserves the right to make changes to or cancel a purchase order after it has been issued. PBS will provide written notice of any such changes or cancellations to the Vendor. In the event of a change to a PBS purchase order, the Vendor shall notify PBS of any changes to the price caused by the change and wait for acceptance of the revised price by PBS before proceeding.
5. **NON-DISCLOSURE:** Drawings, specifications, data or other intellectual property of PBS (IP) shall be kept confidential by the Vendor and only used for work under PBS PO's unless otherwise approved by PBS in writing. Vendor shall notify PBS if any persons who will need to have access to PBS IP are not U.S. citizens in cases where the IP may be subject to export control regulations and a license may be required. The Vendor agrees to keep all PBS IP in a location that is reasonably secure and cannot be accessed by non-authorized personnel. In the event of any breach in the security of PBS IP, the Vendor will notify PBS immediately.
6. **TOOLING:** Any tooling or test equipment that is provided by PBS to the Vendor or fabricated by the Vendor for production of PBS-designed parts and paid for by PBS is considered property of PBS unless otherwise noted in writing on the invoice. Said tooling or equipment should not be used for purposes other than the production of parts for PBS. PBS reserves the right to collect any tooling or test equipment that was provided by or paid for by PBS from the Vendor's premises at any time or make arrangements with the Vendor for shipping it to PBS or another location at any time and for any reason with reasonable advance notice. With the exception of tooling and test equipment that is damaged by normal use and wear, all tooling and test equipment provided by or paid for by PBS that is subsequently lost, damaged, or destroyed while in the Vendor's care shall be repaired or replaced by the Vendor at their expense or charged by PBS to the Vendor at replacement cost.
7. **WORKMANSHIP:**
 - a. *PBS Designed Parts:* All PBS designed parts must conform to the current revision of the drawing unless otherwise noted on our purchase order and must meet all specs, tolerances and other acceptance criteria given on the drawing and/or described on the PO.
 - b. *Non-PBS Designed Parts:* All non-PBS designed parts must meet the specs, tolerances or other criteria as specified by their manufacturer and must be procured directly from the manufacturer or from an authorized distributor. Vendor must notify PBS of any changes made to the specs, tolerances or other criteria and receive the approval of PBS before furnishing new parts.
8. **WARRANTY & INSPECTION:** All articles must have a warranty against defects in material and workmanship. This warranty must survive any inspection, delivery, acceptance of, or payment made for the articles. Inspection of the articles will be made at PBS within a reasonable time period (no later than ninety (90) days after receipt of articles). All non-conforming articles, will be returned to the Vendor at the Vendor's expense for either replacement or repair as agreed upon as the best option. In such cases, the Vendor will expedite the replacement or repair, including expedited shipping costs, at their expense if it is needed in order to meet the schedule of PBS. PBS reserves the right to return the non-conforming articles for full credit if the repair or replacement of the articles by the Vendor cannot be completed in a timely manner.
9. **SAFETY DATA SHEETS (SDS):** A Material Safety Data Sheet (MSDS) is required for all chemicals, batteries or other applicable hazardous materials.
10. **SHIPPING:** A packing list referencing the PO number is to be included with each shipment. Domestic, non-palletized, non-hazardous shipments shall be shipped UPS Ground (or UPS Hundredweight, if applicable) on PBS account #39EW69 unless otherwise specified on PO. Hazardous, non-palletized shipments shall be shipped FedEx Ground on PBS account # 126001517. For all Palletized and/or International shipments, please contact PBS and provide shipment weight and dimensions so that best shipment method can be determined. A lift gate is required for all Palletized shipments. No deliveries will be accepted outside the PBS Receiving Department's standard hours of 8:00AM – 4:00PM EST, Monday thru Friday. Vendor is responsible for any shipping charges incurred if PBS shipping instructions are not followed.
11. **SUPPLIER INTEGRITY COMMITMENT:** The Vendor commits itself to conduct its business activities in a fair, honest, ethical and lawful manner and in strict adherence to all applicable laws and regulations. The Vendor warrants that it or any of its agents will not offer or provide kick-backs or gratuities to any employee of PBS for influencing or attempting to influence the awarding of a purchase order to the Vendor.
12. **INDEMNITY:**
 - a. With respect to articles delivered under the PO, the Vendor holds PBS, its agents, customers and users of its products harmless for any loss, damage or other liability caused by any infringement or alleged infringement of a copyright, trademark, patent, or other violation of intellectual property right of a third party arising out of the sale, manufacture, distribution or use of such articles by the Vendor, PBS or its agents, customers and users of its products. In the event of any such violations, the Vendor shall at its own expense defend all claims, suits and actions against PBS, its agents, customers or users of its products. This indemnification does not apply to articles manufactured to detailed designs developed and provided by PBS.
 - b. For all articles provided by the Vendor to PBS, the Vendor warrants that the work is free from any liens, attachments, charges, encumbrances, claims, or the like, and undertakes to hold harmless, defend and indemnify PBS from and against any claims related hereto.
13. **BINDING EFFECT:** The PO and the acceptance thereof shall be a contract made in the State of Pennsylvania and governed by the laws thereof.
14. **ENTIRE AGREEMENT:** The PO, including these terms and conditions, constitutes the entire agreement between PBS and the Vendor. This purchase order supersedes all prior negotiations, discussions and agreements between PBS and the Vendor with respect to this order. No terms and conditions of the Vendor that are inconsistent with or not included in the terms and conditions contained herein, whether on an invoice or otherwise, shall be binding on PBS unless such terms and conditions are expressly accepted in writing by PBS.