

## 1. DEFINITIONS

In these Standard Purchase Terms, the following definitions apply:

- **“Agreement”** means the agreement between Supplier and Buyer for the purchase and sale of Goods and/or Services and includes these Standard Purchase Terms.
- **“Buyer”** means Fasteners Direct.
- **“Deliverable”** means any deliverable or other product or result from Services that is referred to in a Purchase Order, and any related materials, data, documentation provided by Supplier pursuant to such Purchase Order.
- **“Delivery Date”** means the date of delivery for Goods or performance of Services as specified in a Purchase Order.
- **“Delivery Point”** means the location identified by Buyer in the Purchase Order to which the Supplier is to deliver Goods and/or perform the services, or such other delivery area or point which is specified in writing by Buyer.
- **“Goods”** means the goods that are required to be delivered by Supplier pursuant to a Purchase Order, and include all materials, component parts, packaging and labelling of such goods.
- **“Purchase Order”** means the purchase order between Buyer and Supplier for the purchase and sale of Goods and/or Services, to which these Standard Purchase Terms are attached or are incorporated by reference.
- **“Services”** means any services to be provided by Supplier to Buyer pursuant to a Purchase Order.
- **“Specifications”** means the requirements, attributes and specifications for the Goods or Services that are set out in the applicable Purchase Order. Specifications also include: (1) documentation published by Supplier relating to the Goods or Services; (2) operational and technical features and functionality of the Goods or Services; (3) standards or levels of service performance for Services; and (4) Buyer business requirements that are expressly set out in a Purchase Order.
- **“Supplier”** means the party indicated on the face page of the Purchase Order that is contracting with Buyer for the purchase and sale of Goods and/or Services.
- **“Supplier Proposal”** means any acknowledgement, estimate, quote, offer to sell, invoice, or proposal of Supplier relating to the supply of Goods and/or Services to Buyer, including any delivered in connection with a request for quotations, request for proposal or similar process initiated by Buyer.

## 2. AGREEMENT.

The Agreement consists only of: (a) these Standard Purchase Terms; (b) the applicable Purchase Order; and (c) any Specifications or other documents expressly referenced in the Purchase Order. Any reference in the Purchase Order to any Supplier Proposal is solely for the purpose of incorporating the descriptions and specifications of the Goods and/or Services contained in the Proposal, and only to the extent that the terms of the Supplier Proposal do not conflict with the descriptions and Specifications set out in the Purchase Order. Buyer's acceptance of, or payment for, Goods and/or Services will not constitute Buyer's acceptance of any additional or different terms in any Supplier Proposal, unless otherwise accepted in writing by Buyer.

## 3. DELIVERY OF GOODS AND SERVICES

Supplier agrees to supply and deliver the Goods to Buyer and to perform the Services, as applicable, on the terms set out in this Agreement. Supplier shall, at its own expense, pack, load, and deliver Goods to the Delivery Point and in accordance with the invoicing, delivery terms, shipping, packing, and other instructions printed on the face of the Purchase Order or otherwise provided to Supplier by Buyer in writing. No charges will be allowed for freight, transportation, insurance, shipping, storage, handling, demurrage, cartage, packaging or similar charges unless provided for in the applicable Purchase Order or otherwise agreed to in writing by Buyer. Time is of the essence with respect to delivery of the Goods and performance of Services. Goods shall be delivered, and Services performed by the applicable Delivery Date. Supplier must immediately

notify Buyer if Supplier is likely to be unable to meet a Delivery Date. Title and risk of loss or damage shall pass to Buyer upon receipt of Goods at the Delivery Point, unless otherwise agreed to by the Buyer in writing. Buyer has no obligation to obtain insurance while Goods are in transit from Supplier to the Delivery Point

#### 4. INSPECTION; ACCEPTANCE AND REJECTION

All shipments of Goods and performance of Services shall be subject to Buyer's right of inspection. Buyer shall have **ninety (90) days** (the "Inspection Period") following the delivery of the Goods at the Delivery Point or performance of the Services to undertake such inspection, and upon such inspection Buyer shall either accept the Goods or Services ("Acceptance") or reject them. Buyer shall have the right to reject any Goods that are delivered damaged or defective. In addition, Buyer shall have the right to reject any Goods or Services that are not in conformance with the Specifications or any term of this Agreement. Transfer of title to Buyer of Goods shall not constitute Buyer's Acceptance of those Goods. Buyer shall provide Supplier within the Inspection Period notice of any Goods or Services that are rejected, together with the reasons for such rejection. If Buyer does not provide Supplier with any notice of rejection within the Inspection Period, then Buyer will be deemed to have provided Acceptance of such Goods or Services. Buyer's inspection, testing, or Acceptance or use of the Goods or Services hereunder shall not limit or otherwise affect Supplier's warranty obligations hereunder with respect to the Goods or Services, and such warranties shall survive inspection, test, Acceptance and use of the Goods or Services. Buyer shall be entitled to return rejected Goods to Supplier at Supplier's expense and risk of loss for, at Buyer's option, either: (i) full credit or refund of all amounts paid by Buyer to Supplier for the rejected Goods; or (ii) replacement Goods to be received within the time period specified by Buyer. Title to rejected Goods that are returned to Supplier shall transfer to Supplier upon such delivery and such Goods shall not be replaced by Supplier except upon written instructions from Buyer. Supplier shall not deliver Goods that were previously rejected on grounds of non-compliance with this Agreement, unless delivery of such Goods is approved in advance by Buyer and is accompanied by a written disclosure of Buyer's prior rejection(s).

#### 5. PRODUCT WARRANTIES

Supplier warrants to Buyer that during the Goods Warranty Period, 12-months from delivery, all Goods provided hereunder shall be: (i) of merchantable quality; (ii) fit for the purposes intended; (iii) unless otherwise agreed to by Buyer, new; (iv) free from defects in design, material and workmanship; (v) in strict compliance with the Specifications; (vi) free from any liens or encumbrances on title whatsoever; (vii) in conformance with any samples provided to Buyer; and (viii) compliant with all applicable federal, provincial, and municipal laws, regulations, standards, and codes.

#### 6. CONFIDENTIALITY

Supplier shall maintain in strict confidence all non-public, proprietary, or confidential information relating to Buyer that is obtained or provided in connection with this Agreement ("Confidential Information") in accordance with the terms of the separate Confidentiality Agreement entered into between Supplier and Buyer.

#### 7. NON-CIRCUMVENTION

The Supplier shall not, directly or indirectly, except in collaboration with or with the prior express written consent of the Buyer:

- enter into any transaction with any party/parties introduced to the Supplier by the Buyer (the "Introduced Party") similar to, in competition with, or which otherwise could have the effect of preventing the Buyer from receiving the full benefit of, the transaction[s] contemplated by this Agreement;
- solicit the Introduced Party to enter into any such transaction; or
- induce, solicit, procure, or otherwise encourage its representatives or any other third party, or respond to any solicitation from any of the same, to enter into any such transaction.

The Supplier shall be liable for any failure of its representatives and affiliates to comply with the restrictions set forth under this Section 7.

## 8. PRICE/PAYMENT TERMS

Prices for the Goods and/or Services will be set out in the applicable Order. Price increases or charges not expressly set out in the Purchase Order shall not be effective unless agreed to in advance in writing by Buyer. Supplier will issue all invoices on a timely basis. All invoices delivered by Supplier must meet Buyer's requirements, and at a minimum shall reference the applicable Purchase Order. Buyer will pay the undisputed portion of properly rendered invoices five (5) days extended from the specified invoice due date. Buyer shall have the right to withhold payment of any invoiced amounts that are disputed in good faith until the parties reach an agreement with respect to such disputed amounts and such withholding of disputed amounts shall not be deemed a breach of this Agreement nor shall any interest be charged on such amounts. Notwithstanding the foregoing, Buyer agrees to pay the balance of the undisputed amounts on any invoice that is the subject of any dispute within the time periods specified herein.

## 9. INDEMNIFICATION

Supplier shall indemnify, defend, and hold harmless Buyer, its affiliates, officers, employees, and agents against all claims, damages, losses, liabilities, and expenses (including reasonable attorneys' fees) arising from:

- Supplier's breach of the Agreement.
- Defects in Goods or Services.
- Supplier's negligence or willful misconduct.
- Intellectual property infringement claims relating to Goods or Services.

## 10. INSURANCE

Supplier shall maintain at its sole cost: Commercial General Liability insurance with limits not less than USD \$2,000,000 per occurrence and USD \$5,000,000 aggregate; Product Liability insurance with comparable limits; Workers' Compensation insurance as required by law. Supplier shall provide Certificates of Insurance upon request and shall not cancel or materially alter coverage without thirty (30) days' prior written notice to Buyer.

## 11. LIMITATION OF LIABILITY

Except for liability arising from (i) Supplier's indemnification obligations; (ii) breach of confidentiality; (iii) infringement of intellectual property rights; (iv) defects in or recalls of Goods; or (v) Supplier's gross negligence, fraud, or willful misconduct, in no event shall either party be liable to the other for any indirect, incidental, consequential, special, or punitive damages (including lost profits or lost business opportunities), whether arising in contract, tort, or otherwise, even if advised of the possibility of such damages. Supplier's total cumulative liability for any and all claims, damages, or losses arising out of or relating to a Purchase Order shall not exceed the greater of (a) the total amounts paid or payable by Buyer under such Purchase Order, or (b) USD \$2,000,000. The foregoing cap shall not apply to Supplier's indemnification obligations, breach of confidentiality, or liability for gross negligence, fraud, or willful misconduct.

## 12. TERMINATION

Buyer may terminate a PO, in whole or in part, at any time for any reason, including, without limitation, for cause or for convenience of the Buyer upon written notice to the Supplier. The Supplier shall cease work immediately and protect all property in its possession in which Buyer has an interest. Buyer shall only be liable for conforming Goods or Services received and accepted prior to termination.

## 13. GOVERNING LAW & DISPUTE RESOLUTION

This Agreement shall be governed by and construed under the laws of the State of New York, without regard to its conflict of law rules. Any dispute arising under or relating to this Agreement shall be resolved exclusively in the state or federal courts located in Monroe County, New York. The parties' consent to such jurisdiction and venue. EACH PARTY SPECIFICALLY WAIVES ANY RIGHT IT MIGHT OTHERWISE HAVE TO A JURY TRIAL WITH RESPECT TO ANY MATTER ARISING UNDER THIS AGREEMENT.

## 14. FORCE MAJEURE

Neither party shall be liable for any failure or delay in performing its obligations under this Agreement (other than payment obligations) to the extent such failure or delay is caused solely by extraordinary events beyond its reasonable control, including acts of God, natural disasters, epidemics, war, terrorism, or government orders ("Force Majeure Event"). Supplier-specific events such as labor disputes, equipment breakdowns, shortages of materials, or increases in costs shall not constitute a Force Majeure Event unless such events are industry-wide, unavoidable, and not attributable to Supplier's lack of planning or alternate sourcing. The affected party must provide written notice to the other party within five (5) days of the Force Majeure Event, describing its nature, expected duration, and anticipated impact on performance. The affected party shall use diligent efforts to mitigate the effects and resume performance as soon as possible. If Supplier's performance is delayed more than thirty (30) days due to a Force Majeure Event, Buyer may, at its sole option, terminate the affected Purchase Order without liability by written notice. In such event, Buyer shall have no obligation to pay for any partially completed, delayed, or undelivered Goods or Services.

## 15. SURVIVAL

Sections relating to Insurance, Limitation of Liability, Product Warranties, Indemnification, Confidentiality, Governing Law & Dispute Resolution shall survive termination or expiration of this Agreement.

## 16. COUNTERPARTS; ELECTRONIC SIGNATURES

Several copies of this Agreement may be executed by the parties, each of which shall be deemed an original for all purposes, and all of which together shall constitute but one and the same instrument. Facsimile or electronic signature copies, including without limitation transmission by .PDF or other fixed image form or any electronic signature complying with U.S. Federal ESign Act of 2000 (e.g. [www.docusign.com](http://www.docusign.com) or [www.echosign.adobe.com](http://www.echosign.adobe.com)) of signed signature pages will be deemed binding originals.