

TERMS AND CONDITIONS OF SALE

All products and services (collectively, ***“Products”***) provided for in the preceding proposal (***“Proposal”***) shall be furnished by Peninsular Cylinder Co. Inc. (***“PENINSULAR”***) and accepted by the party (***“Buyer”***) who accepts a quotation of PENINSULAR for the sale of the Products or whose order for the Products is accepted by PENINSULAR in accordance with the following Terms and Conditions of Sale (***“Terms”***). The preceding Proposal and these Terms shall together constitute the agreement of PENINSULAR and Buyer (***“Agreement”***). Unless otherwise specifically agreed to in writing by PENINSULAR, the Terms shall also apply to any and all future orders placed by Buyer for PENINSULAR products and/or services, including products and/or services not referenced in the preceding Proposal. The offer of PENINSULAR to Buyer contained in this Agreement expressly limits Buyer’s acceptance to the terms of this Agreement. PENINSULAR rejects any terms contained in any purchase order or other documents issued by Buyer which are different from, conflict with, modify and/or add to this Agreement; in such event, the terms of this Agreement shall govern and prevail. PENINSULAR’s execution of any document issued by Buyer shall constitute only an acknowledgment of receipt thereof, and shall not be construed as an acceptance of any of the terms therein. Unless Buyer sets forth each specific objection to this Agreement in this Agreement or in a separate writing signed and dated by Buyer and delivered to PENINSULAR contemporaneously with this Agreement, Buyer shall be deemed to have accepted all of the terms of this Agreement. Buyer’s issuance of a purchase order or other document which purports to reject some or all of the terms of this Agreement by virtue of Buyer’s standard form language, or otherwise, shall not be sufficient objection. Where Buyer specifically objects to any of the terms of this Agreement, no contract shall be formed unless and until PENINSULAR accepts in writing Buyer’s proposed modifications to this Agreement. No waiver or modification of any of the terms of this Agreement shall be valid unless made in writing and signed by PENINSULAR and Buyer. The foregoing notwithstanding, if PENINSULAR discovers errors or omissions in the Proposal, PENINSULAR is authorized to correct or add to the Proposal or terminate this Agreement, provided that if PENINSULAR exercises its right to correct or add to the Proposal, Buyer may for a period of 5 days from receipt of notice of such changes or additions, terminate this Agreement. Stenographic and clerical errors are subject to unilateral correction. Unless otherwise specified, commercial variations will be allowed on all dimensions.

PRICES: Prices quoted in the Proposal are in U.S. dollars and are effective as of the date of the quotation and subject to change. Prices are valid for 30 days unless otherwise agreed in writing. Prices do not include shipping and handling charges which appear as a separate line item on the invoice. Prices do not include surcharges for material and/or freight costs which are passed on to Peninsular when those industries levy additional charges. Surcharges may appear without notice as a temporary charge as a result of current economic conditions.

TERMS OF PAYMENT: The applicable purchase price of the Products shall be due as set forth in the Proposal. If shipments are delayed by Buyer for any cause, payment shall become due from the date on which PENINSULAR is prepared to make shipment and storage shall be at Buyer’s risk and expense. If manufacture is delayed by Buyer for any cause, a partial payment based upon the percentage of completion of the order shall become due from the date on which PENINSULAR is notified of the delay. PENINSULAR may at any time, when in its opinion Buyer’s financial condition warrants, alter or suspend credit and delivery until such time as arrangements for payment are made which are satisfactory to PENINSULAR. Buyer agrees to pay to PENINSULAR interest charges of 1.5 percent per month on the outstanding balance of all accounts of Buyer that are not paid in accordance with the terms of this Agreement, in addition, Buyer agrees to reimburse PENINSULAR for all costs incurred by PENINSULAR as a result of any breach of this Agreement by the Buyer including, but not limited to, reasonable attorneys’ fees and costs. All payments hereunder shall be in United States Dollars and made by check or wire transfer, unless otherwise agreed upon in writing by PENINSULAR.

TAXES: PENINSULAR prices do not include sales, occupation, license, inventory, use, or other taxes or fees, which are the sole responsibility of Buyer. If Buyer is exempt from the payment of any tax it is the duty of Buyer to furnish PENINSULAR the proper exemption certificate.

DELIVERY: Except as otherwise specified in this document, delivery will be F.O.B. point of shipment. Deliveries are scheduled only after receipt of order, clarification of required technical information, and resolution of commercial issues. Shipping dates are estimated based on conditions prevailing at the time of quotation, but are not guaranteed. If Buyer requests delivery by a carrier other than the carrier regularly used by PENINSULAR and whose rates are reflected in the Proposal, any excess costs will be the expense of Buyer. PENINSULAR shall not be liable for delays in delivery or failure to manufacture due to force majeure or causes beyond its reasonable control such as Acts of God, acts or omissions of Buyer, acts or omission of civil or military authority, priorities, fire, strikes, floods, epidemics, quarantines, restrictions,

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riot, war, delays in transportation, transportation vehicle/vessel shortages and inability to perform due to inability to obtain necessary labor, materials or manufacturing facilities. In the event of any delay such as above described, the date of delivery shall be extended for a period equal to the time lost by reason of such delay. The Products shall be delivered to Buyer or its designated shipping company and risk of loss shall pass to Buyer Ex Works PENINSULAR'S facility in Roseville, Michigan, unless specified otherwise in the Proposal.

TITLE AND SECURITY INTEREST: The title to and right of possession of the Products (or any part or portion thereof) furnished by PENINSULAR shall remain PENINSULAR'S personal property until paid for in full, and Buyer shall do all things necessary to perfect and maintain such right and title in PENINSULAR. To the extent Buyer should be deemed the owner of the Products despite not having paid for the Products in full, Buyer grants to PENINSULAR a security interest in the Products purchased and in the proceeds thereof. PENINSULAR is authorized to file financing statements and other documents necessary to perfect and continue the security interest. If PENINSULAR in its sole judgment questions Buyer's ability to pay for the Products, PENINSULAR may require payment in full in advance of delivery or manufacture of the Products. Failure to adhere to PENINSULAR'S terms may result in a shipping hold on future orders and/or a reduction in the credit PENINSULAR will extend.

CANCELLATION: No order may be canceled by Buyer unless specifically consented to by PENINSULAR in writing. In the event of such consent, Buyer shall pay: (a) contract price for all Products that have been completed prior to receipt of notice of cancellation; (b) all costs incurred by PENINSULAR in connection with the uncompleted portion of the order plus a normal profit of the total contract price as partial damages; and (c) cancellation charges, if any, of PENINSULAR on account of its purchasing commitments made under the order. PENINSULAR shall have the right to cancel any order or to refuse to deliver or to delay shipment in the event Buyer fails to submit payments when due or perform any other obligations of Buyer.

INDEMNITY: Buyer shall indemnify, defend and hold PENINSULAR harmless from and against any and all claims, actions, damages, demands, liabilities, costs and expenses, including attorneys' fees and expenses, relating to the Products, except to the extent caused by the gross negligence or willful misconduct of PENINSULAR.

INTELLECTUAL PROPERTY: Buyer shall not remove, alter, obliterate or cancel PENINSULAR'S trade names or trademarks appearing on any Product nor take any actions which are inconsistent with PENINSULAR'S ownership of such names and trademarks. Products purchased pursuant to this Agreement may include intellectual property proprietary to PENINSULAR

IMPORT LICENSES: Prior to the date of shipment of the Products, Buyer shall obtain at its sole cost all import licenses and/or other government approvals that may be required by the country of importation. Upon PENINSULAR's request, Buyer shall provide PENINSULAR with copies of such import licenses and/or government approvals to evidence Buyer's compliance with this provision. Buyer represents and warrants that it is not, and Buyer shall not, directly or indirectly, transfer the Products to, a person or entity listed as: (1) a Specially Designated National or Blocked Person by the U.S. Treasury Department; (2) a Denied Person by the U.S. Commerce Department; (3) a Denied Entity by the U.S. Commerce Department; or (4) a Debarred Party by the U.S. State Department. Buyer shall indemnify, defend and hold PENINSULAR harmless from any claim, loss, damage, fines, penalties, liability or expense incurred with regard to Buyer's failure to comply with this provision.

MANUALS, BROCHURES, INSTRUCTIONS: All operating manuals, instructions, brochures, warnings, or similar materials concerning the Products (collectively, the "Operator Service Manual") are provided to Buyer as a source of information on the safe and proper maintenance and operation of the Products. Buyer's failure to comply with the recommendations set out in the Operator Service Manual may result in personal injury and/or property damage. Buyer agrees to not remove warnings, notices, safety guards or other protective devices, except for maintenance as recommended by, and in accordance with, the Operator Service Manual.

NON-WARRANTY SERVICE CHARGES: Should the Buyer of a Product request the service of an PENINSULAR service technician (except as specifically provided for and included in the price of such Product in the attached schedule or schedules), such service will be rendered at a quoted charge per day, plus, all other expenses incident thereto, including transportation to and from Buyer's facility and living expenses.

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COMPLIANCE WITH LAWS: Buyer shall comply with the United States Foreign Corrupt Practices Act of 1977, as amended, and all export laws and restrictions and regulations of the Department of Commerce, Department of Defense or of other United States or foreign agencies or authorities, and shall not export, or allow the export or re-export of any Product in violation of any such restrictions, laws or regulations.

APPLICABLE LAW: This Agreement shall be interpreted and enforced in accordance with the laws of the State of Michigan, including the laws of the United States applicable therein. THE UNITED NATIONS CONVENTION ON THE INTERNATIONAL SALE OF GOODS SHALL NOT GOVERN THE INTERPRETATION OF OR ANY DISPUTE ARISING FROM THIS AGREEMENT.

LIMITATION OF CLAIMS: No action or proceeding based on this Agreement or arising out of its performance shall be instituted by either party more than one (1) year after the cause of action or claim has accrued; provided, however, that no such limitation shall apply to claims for payment under this Agreement by PENINSULAR against Buyer.

ARBITRATION: Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration in the State of Michigan, before a single, neutral arbitrator chosen jointly by counsel to PENINSULAR and counsel to Buyer. Should counsel to the parties be unable to agree on an arbitrator, each party shall choose an arbitrator, and the two arbitrators chosen by the parties shall select a third arbitrator who will decide the controversy. Judgment rendered upon the award, including such reasonable attorneys' fees as may be awarded the prevailing party, may be entered in any court having jurisdiction thereof.

INTEGRATION; MODIFICATIONS; WAIVER. This Agreement contains the entire understanding between the parties with respect to the transactions and subject matter contemplated hereby and supersedes, merges, and replaces all prior and contemporaneous agreements and understandings, oral or written, between the parties. This Agreement may not be orally amended or changed. This Agreement may be amended or changed only by written instrument executed by both parties. The provisions of this Agreement may be waived only by a written instrument executed by the party waiving such provision. A waiver of any term of this Agreement shall not be deemed a waiver of any other term, or of such term on any other occasion.

ATTORNEYS' FEES: In the event of any controversy, claim, or dispute between the parties hereto arising out of or relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the other party reasonable expenses, attorneys' fees and costs. Attorneys' fees incurred in enforcing any judgment are recoverable as a separate item, and this provision for post-judgment attorneys' fees shall survive any judgment and shall not be deemed merged into the judgment.

CONFIDENTIALITY: All data, designs, drawings, processes, specializations, reports and other technical, financial or proprietary information submitted by PENINSULAR to Buyer and the features of all parts, equipment, tools, patterns and other items furnished or disclosed to Buyer by PENINSULAR in connection with the order (the "***Confidential Data***") are to be considered confidential, the sole property of PENINSULAR, shall not be used except in connection with PENINSULAR'S provision of the Products to Buyer in accordance with the order and shall not be published or disclosed to any third party without PENINSULAR's prior written authorization, unless the Confidential Data or any relevant part thereof is or becomes generally available to Buyer on a non-confidential basis from a source (other than PENINSULAR) which is entitled to disclose the same. Buyer shall not, without receipt of PENINSULAR's prior written authorization, disclose any term or provision of this order.

LIMITATION ON LIABILITY: PENINSULAR SHALL IN NO EVENT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE SALE OF PENINSULAR PRODUCTS OR TO THIS AGREEMENT OR ANY BREACH THEREOF, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR REVENUE, WORK STOPPAGE OR INEFFICIENCIES, IMPAIRMENT OF THE PRODUCTS, LOSS BY REASON OF SHUTDOWN OR NON-OPERATION OR INCREASED EXPENSES OF OPERATION, WHETHER OR NOT SUCH LOSS OR DAMAGE IS BASED ON CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT PENINSULAR WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN NO EVENT SHALL PENINSULAR'S TOTAL LIABILITY (WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, TORT OR OTHERWISE) TO BUYER ARISING OUT OF OR RELATED TO THE SALES OF ANY PENINSULAR PRODUCTS EXCEED THE PURCHASE PRICE OF SUCH PRODUCTS.

LIMITED WARRANTY

Except as limited herein, PENINSULAR warrants to the original Buyer that the Products manufactured by PENINSULAR shall be free from manufacturing defects in material and workmanship (“Warranty”) under normal use and service for the Warranty Period (as defined below). PENINSULAR shall not be obligated to provide any remedy under this Warranty for any defect not communicated to PENINSULAR in writing within the Warranty Period.

This Warranty supersedes any representations concerning the Products sold to the Buyer which may have been made by PENINSULAR’S representatives, agents or employees, or contained in advertisements. If any model or sample was shown to the Buyer, that model or sample was used merely to illustrate the general type and quality of the Products and not to represent that the Products would necessarily conform to such model or sample.

PENINSULAR and Buyer expressly agree that PENINSULAR’S obligations under this Warranty are limited solely to repair or replacement (as determined by PENINSULAR in its sole discretion) (FOB point of shipment) of any Product or part or component thereof that PENINSULAR in its sole determination deems defective, provided Buyer has notified PENINSULAR of the alleged defect during the applicable Warranty Period.

PENINSULAR makes no warranty with respect to any auxiliary equipment manufactured by others and sold by PENINSULAR. These items are subject to the warranties of the manufacturer, and Buyer agrees that any warranty claims on these items shall be made by the Buyer directly against the manufacturer. PENINSULAR shall not be made a party to such claims by Buyer.

THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. THERE ARE NO OTHER WARRANTIES, AGREEMENTS OR UNDERSTANDING WHICH EXTEND BEYOND THOSE SET FORTH IN THESE TERMS. NO OTHER WARRANTY, ORAL OR WRITTEN, IS AUTHORIZED OR HAS BEEN GIVEN BY PENINSULAR TO BUYER.

PENINSULAR SHALL IN NO EVENT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE SALE OF PENINSULAR PRODUCTS OR TO THIS AGREEMENT OR ANY BREACH THEREOF, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR REVENUE, WORK STOPPAGE OR INEFFICIENCIES, IMPAIRMENT OF THE PRODUCTS, LOSS BY REASON OF SHUTDOWN OR NON-OPERATION OR INCREASED EXPENSES OF OPERATION, WHETHER OR NOT SUCH LOSS OR DAMAGE IS BASED ON CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT PENINSULAR WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN NO EVENT SHALL PENINSULAR’S TOTAL LIABILITY (WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, TORT OR OTHERWISE) TO BUYER ARISING OUT OF OR RELATED TO THE SALES OF ANY PENINSULAR PRODUCTS EXCEED THE PURCHASE PRICE OF SUCH PRODUCTS.

WARRANTY PERIOD

The **Warranty Period** commences upon the earlier of the date the Products are placed in service or thirty (30) days after the date the Products were available for shipping in the case shipping is delayed by Buyer or by circumstances outside the control of PENINSULAR. The **Warranty Period** terminates upon the expiration of ninety (90) days from the date of shipment, or unless otherwise indicated below:

Seller warrants repaired or replaced parts of its own manufacture against defects in materials and workmanship under normal use and service for the period defined within the specific product group. Please refer to Schedules Custom, Pneumatic, Hydraulic QF-30-R07 and/or Repair QF-32-R01 for specific details, and warranty periods.

EXCLUSIONS

This Warranty applies only to new Products manufactured by PENINSULAR that have been properly installed and maintained and subjected to normal use. It does not cover damages caused by accident, abuse, misuse, negligent handling, improper or inadequate maintenance, tampering, or installation, modification, alteration or repair not performed by PENINSULAR or its authorized subcontractors or third parties approved by PENINSULAR; operation in a manner other than as specified in the Operator Service Manual; failure to maintain the Products in accordance with the Operator Service Manual; damage caused by parts, equipment or other devices not furnished and installed by PENINSULAR; electrical brownouts, power surges, loose wires, or loose screws, nuts or bolts; use of the Products beyond their original capacities or specifications; or operation on improper voltages. In addition, the following are, without limitation, expressly excluded from the Warranty:

- ◆ Cleanliness of the operating medium.
- ◆ Failures attributable to environmental conditions or excessive heat near the cylinder.
- ◆ Fluid incompatibility with the supplied seal specified and ordered by the customer.
- ◆ Side load and or misalignment.
- ◆ Deviation from operating instructions, specifications or other special terms of sale.
- ◆ Peninsular Cylinder Company will not be held liable for any machine and/or plant downtime or other incidental charges for installation or removal of the cylinder, or misapplication of the cylinder.
- ◆ Any cylinder or product not re-conditioned with Peninsular Cylinder Company's approved seals.
- ◆ Any cylinder dis-assembled or modified without the written consent of Peninsular Cylinder Company will void any warranty claims.
- ◆ Shipping costs and special handling charges to expedite delivery of Products, parts and components.
- ◆ Labor associated with warranted Products, parts and components.

RETURN OF DEFECTIVE GOODS

In the event that Buyer believes a Product, part or component manufactured by PENINSULAR is defective in material or workmanship during the Warranty Period, Buyer shall promptly notify PENINSULAR in writing of the problem. Written notice shall include all identifying details including serial number, type of equipment, and date of purchase. Upon receipt of such written notice, seller's sole obligation shall be, at its option, to repair, replace, or refund the purchase price of any product or part thereof which proves to be defective. PENINSULAR will issue Buyer a Returned Goods Authorization ("RGA") number that must accompany the Product, part or component returned to PENINSULAR for warranty consideration. This RGA number is valid for thirty (30) days from the time of its receipt. Upon receipt of the defective Product, part or component, PENINSULAR will make an evaluation, or if necessary, forward a defective part to the original manufacturer for warranty consideration. Buyer shall then be notified of the manufacturer's determination. If the part is found to be defective in material or workmanship, the obligations of PENINSULAR are strictly and exclusively limited to the repair or replacement, at the option of PENINSULAR, of the defective Product, part or component. PENINSULAR agrees to pay all shipping charges, at UPS ground rates, for delivery to Buyer of repaired or replacement parts provided the submitted parts have proved to be defective and covered by this Warranty. Where expedited delivery of repaired or replacement parts is requested by Buyer, such additional shipping charges shall be paid by Buyer.

- The Buyer must return any defective Product, part or component to PENINSULAR within (30) days of receipt of an RGA number (shipping costs prepaid by the Buyer). If the part is timely returned to PENINSULAR and the failure is confirmed to be the result of a manufacturing defect, the Buyer will be credited the amount invoiced (plus shipping) for the repaired or replacement part. In the event a defective part is not received within (30) days of receipt of the RGA number, the Buyer will be billed the total cost of the replacement part or repairs, plus shipping and handling for returning the repaired or replacement part.
- PENINSULAR shall make a final determination, in its sole discretion, whether returned parts are subject to a manufacturer's defect or whether the returned part failed due to Buyer's failure to perform recommended Scheduled Maintenance, neglect, abuse or other circumstances causing the Warranty to be void.