

TERMS AND CONDITIONS

1. **GENERAL** – Seller reserves the right to correct clerical and typographical errors. Orders accepted by Seller can be cancelled, or specifications changed only with Seller's written consent and upon the condition, that Buyer pay Seller reasonable cancellation charges. Any representation, warranty, course of dealing or trade usage not contained or referenced herein will not be binding on Seller. No modification, amendment, omission or waiver, or any other change will be binding on Seller unless assented to in writing by Seller's authorized representative.
2. **ACCEPTANCE** – A quotation is not an offer but may be considered an invitation for an offer by Buyer, such invitation is subject to change and any order by the Buyer pursuant hereto is subject to acceptance by Seller. Acknowledgements containing special order parts must be signed and approved before acceptance of order by Seller.
3. **CANCELLATIONS** – In the event of Buyer's cancellation of order, the Buyer shall reimburse Seller for the work completed and work in process and for tooling and engineering and expenses incurred in connection with such order. All special order parts as noted within the acknowledgement are non-cancelable and non-returnable unless written authorization is given by Seller.
4. **CONFLICT** – Your purchase order is an offer to purchase. Our acknowledgement gives all terms and conditions. Any conflict between Buyer's purchase order and Seller's acknowledgement, our acknowledgement will prevail. These Terms are hereby incorporated into and made a part of each such Order. Upon the earlier of Seller's written acceptance of the Order of acceptance by Buyer of goods furnished by Seller in response to such Order, the Order, the written acceptance, if any, and these Terms shall be the complete and final agreement (the "Agreement") between Seller and Buyer with respect to the sale of goods identified in the Order, provided, however, that no pre-printed or form language appearing in Buyer's Order shall become a part of the Agreement. **SELLER'S ACCEPTANCE OF ANY BUYER ORDER IS EXPRESSLY MADE CONDITIONAL UPON BUYER'S ACCEPTANCE OF THESE TERMS, AND SELLER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS, WHETHER CONTAINED IN BUYER'S ORDER OR OTHERWISE. SELLER WILL NOT BE DEEMED TO HAVE WAIVED THESE TERMS AND CONDITIONS OF SALE IF IT FAILS TO OBJECT TO PROVISIONS CONTAINED IN BUYER'S FORMS OR OTHERWISE.**
5. **SELLER MAKES NO WARRANTY OF FITNESS FOR PURPOSE OR MERCHANTABILITY AND NO OTHER WARRANTY, ORAL OR WRITTEN, EXPRESSED OR IMPLIED, EXCEPT AS SPECIFICALLY SET FORTH HEREIN.** In no event shall Seller be liable for any special, indirect, or consequential damages, relating directly or indirectly to the supply of the goods hereunder. Where defective goods cannot be replaced or repaired by Seller's reasonable efforts, the parties will negotiate an equitable adjustment in price. In no event shall Seller's liability to Buyer for any loss or damage arising out of or resulting from this agreement exceed the price of the specific goods, which gives rise to the claim.
6. **DEFECTIVE PRODUCT** – Any material or merchandise found, upon inspection, to be improperly processed by our supplier(s) will be reworked without charge provided that: (1) Notice of defect is given in writing within **15 days** of receipt of material by Buyer, and will give Seller prompt notice of any non-conformity or defect. Buyer's failure in either respect will constitute a waiver of such non-conformity or defect. Buyer shall keep lot traceability records for the goods to ensure that lots manufactured by Seller can be traced through Buyer's manufacturing and/or sales processes. (2) We are given on the opportunity to inspect the material **prior** to return. (3) Materials or merchandise are in the same condition as when originally shipped by Seller. No claims will be accepted if product has been altered in **any** manner (finish, drilling, etc), even if product is stripped back to original finish. Processing or assembly of any such reject by Buyer or any other party shall constitute a waiver of any liability on Seller's part. It shall be the duty of the Buyer to inspect the merchandise immediately upon its arrival, and in any event, claims must be reported in writing prior to the time that any further processing, assembling, or any other work is undertaken.
7. **HYDROGEN EMBRITTLEMENT** – All electroplated parts are subject to hydrogen embrittlement. The Buyer should test the product in assembly conditions **prior** to full production for failure conditions inherent to the assembly or assembly environment. Any use of the fasteners constitutes acceptance of the product as is. All warranties implied or otherwise, shall become null and void.
8. **UNPLATED (PLAIN PRODUCT)** – Byler Rivet Supply does not guarantee unplated parts will not rust.
9. **DISPOSAL OF PRODUCT** – Buyer will not dispose of defective product in any manner without prior written authorization from Seller. Any product which is disposed of without prior written authorization from Seller will be considered sold product and no credit will be issued to Buyer's account.
10. **RETURNS** – Seller will not accept return of any goods from Buyer without prior written authorization from Seller. No returns will be accepted after 90 days after receipt of material by Buyer. All product being returned **after receiving written authorization**, must be returned in original cartons and must not have been altered in any manner. Seller will indicate on written return authorization, a specific carrier to use to return subject parts. Seller will not be responsible for any freight/transportation charges, if a carrier other than the carrier specified on written return authorization is used by Buyer to return the subject parts.
11. **SHORTAGE CLAIMS** – No claims for shortage in weight or count will be allowed unless made in writing and presented or mailed within (7) **seven** working days after receipt of material or merchandise by Buyer. Notification of shortage must include Buyers calculations of: (1) weight per carton, (2) pieces per carton, (3) total weight received, (4) product lot number(s) from carton(s). No claims for shortage will be allowed for product drop shipped to anywhere other than customer facilities.
12. **TECHNICAL ADVICE OR OTHER ASSISTANCE** – Unless otherwise agreed in writing, if Seller furnishes Buyer with any advice or technical assistance pertaining to any goods supplied hereunder, or any system or equipment in which any such goods may be installed, the furnishing of such advice or assistance will not subject Seller to any liability, whether in contract, warrant, tort (including negligence), or otherwise. Seller takes no responsibility for performance of the goods supplied hereunder, when used in components, parts or materials not supplied by Seller, and Seller takes no responsibility for the suitability of buyer's designs or installation procedures. In addition, Seller will not be responsible for specific applications without prior written approval.
13. **DELIVERY, TITLE AND RISK OF LOSS** – Delivery dates are **estimates only** and are based upon prompt receipt of all necessary information from Buyer. Unless otherwise specifically agreed in writing by Seller, all goods are sold ex works Seller's plant, the cost of transportation for and risk of loss to the goods to be borne by Buyer. All delivery and shipping dates are **estimates only**.
14. **DELAYS** – Seller will use **every reasonable effort** to fill the Order in accordance with the **estimated** delivery or shipping date, but Seller will not be responsible for **any** delays in filling the Order nor liable for any losses or damages resulting from such delays.
15. **FORCE MAJEURE** - Seller will not be liable for delays in filling the Order of failure in the performance of any of its obligations hereunder caused by accidents, labor disputes or disruptions, strikes, shortages of labor, materials, fuel or power, fires, floods or other acts of God, acts of terrorism or war, acts or omissions of Buyer, delays in transportation or lack of transportation facilities, priorities required, requested or granted for the benefit of the government, restrictions imposed by law or and rules or regulations hereunder, or any cause, whether similar to or dissimilar from those enumerated, beyond Seller's reasonable control.
16. **PRICES** – Buyers obligation to make full and timely payment for each shipment will be without rights of set-off. The prices stated do not include taxes and duties. All taxes and duties in effect or hereafter levied which are applicable to the sale of the goods, are in addition to such prices and will be paid by Buyer. Unless otherwise agreed to in writing by Seller, payment terms are **Net 30 Days** from the date of invoice. Seller reserves the right to charge interest on late payments. Whenever reasonable grounds for insecurity exist with respect to due payment by Buyer, Seller may demand different terms of payment and may demand assurance of due payment. Seller may, upon the making of such demand, stop production and suspend shipment hereunder. If, within the period stated in such demand, Buyer fails or refuses to agree to such different terms of payment or fails or refuses to give adequate assurance of due payment, Seller may, at its option treat such failure or refusal as a repudiation of the portion of the Order which has not been fully performed, or may resume production and may make shipment under reservation of possession of a security interest and may demand payment against tender of documents of title.
17. **DISCLOSURE OF INFORMATION** – Any information, suggestions, or ideas transmitted by Buyer to Seller in connection with the performance hereunder shall not be deemed a secret or confidential or submitted in confidence to Seller, except as may be specifically agreed to in writing by Seller.
18. **PERMISSIBLE VARIATIONS** – All goods shall be furnished subject to the manufacturing standards of Seller's vendors, and commercial variations and practices. Seller reserves the right to ship overages or underage to the extent of **10%** of the quantity ordered.
19. **PRICES** – Prices are subject to change without notice. All orders are accepted on the basis of price in effect at the time of shipment.
20. **WARRANTY** – Seller warrants the goods described herein against defects in material and workmanship for a period of **60 days** after receipt of shipment. Seller's obligation under this warranty is limited to the furnishing or repairing of, at Sellers option, any goods which it determines to be defective with all the necessary packaging, dismantling, assembly and transportation costs to be paid by Buyer, unless written authorization is approved by Seller.
21. **SERVICE CHARGES, DISPUTE RESOLUTION AND ARBITRATION** – A service charge will be assessed on past due amounts at the rate of **1.5%** per month in addition, all attorney fees, court costs and/or collection agency charges will be charged to the Buyer. Any dispute or difference arising between the parties under this Purchase Order, as to their respective rights or obligations in terms hereof or connected herewith or incidental hereto or as to the interpretation of any of the terms hereof, shall unless it is amicable settled, be referred to arbitration. The venue of the Arbitration shall be Dallas, TX. The Arbitration shall be by the sole arbitrator and in the event parties are unable to agree on appointment of the sole arbitrator, each party shall appoint an arbitrator and the two arbitrators shall appoint third arbitrator.
22. **GOVERNING LAWS** – The Purchase Order shall be governed by the laws of The State of Texas, and said shall have exclusive jurisdiction.