

PHOENIX PRODUCTS, INC.
STANDARD TERMS AND CONDITIONS

Prior to accepting this Purchase Order, Phoenix Products, Inc. (PPI) urges the Seller to read and understand fully the terms and conditions under which said Purchase Order is issued. If there are any questions the Seller should contact the PPI point of contact listed in the Purchase Order.

1. Definitions

As used herein, the following terms have the meanings so indicated: a) "Items" means supplies, products and/or services ordered by PPI from the Seller pursuant to a Purchase Order. b) "Purchase Order" means a transmission by PPI to the Seller, electronically through a computer network or otherwise, by mail of a hard copy, or by such other means as may be agreed (each a "transmission"), containing a Purchase Order number, a vendor reference number, an item, identification or specification description, number or items requested, and/or such other information evidencing an offer to the Seller by PPI relating to the purchase of goods or services. c) "Purchase Order Revision" means a transmission revising the information contained in a Purchase Order. d) "Goods" and "Services", the terms "Goods" as used herein means any and all supplies, products, chemicals, parts, machines, tooling, test equipment, computer software, components, assets and other tangible items or documentary information furnished or required to be furnished by the Seller under this Purchase Order other than labor. The term "Services" means any and all technical assistance, consultations, engineering, program management, and other effort furnished or required to be furnished by the Seller under this Purchase Order other than labor furnished in connection with the production of goods.

2. Services

Seller shall perform all work diligently, carefully and in a good and workmanlike manner. Seller shall furnish all labor, supervision, machinery, equipment, goods and supplies necessary therefore; shall obtain and maintain all building and other permits and licenses required by public authorities in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors. Seller shall conduct all operations in Seller's name and as an independent contractor, and not in the name or as an agent of PPI.

3. Inspection

Items are subject to PPI's inspection, testing and approval. PPI, at its option, may reject or refuse acceptance of Items, which do not meet the requirements of the Purchase Order or any applicable warranty. Items rejected or not accepted by PPI will be returned to the Seller at the Seller's expense, and The Seller agrees to refund to PPI any payments (including, but not limited to shipment expense) made by PPI for such Items, payment by PPI for any Items shall not be deemed an acceptance thereof. Acceptance of any Item shall not relieve the Seller from any of its obligations, representations or warranties hereunder or pursuant hereto.

4. Modification

No amendments or modifications of any of the terms and conditions of this Purchase Order shall be valid unless reduced to writing and signed by both parties. The terms and conditions of this Purchase Order shall not be amended or modified by the course of performance or course of dealing between the parties.

5. Quality and Warranty

a) The Seller warrants that all goods and services shall (i) conform strictly to the design criteria, specifications (including general specification and quality requirements), descriptions, drawings, samples, and other requirements referred to in this Purchase Order or provided by the Seller, (ii) be free from defects in design, material, and workmanship, and (iii) be free of all liens, encumbrances, and other claims against title. b) All warranties specified in section "a)" of this clause shall (i) survive any inspection, delivery, acceptance, or payment by PPI, and (ii) be in effect for the longer of the Seller's normal warranty period or the Purchase Order's specified warranty period following the date of acceptance of the goods or services by PPI.

6. Non-Complying Products

PPI shall have the right (but not the obligation) to review work progress and test all supplies, special tooling, goods and workmanship to the extent practicable at all times and places during the period of manufacture. In case any goods delivered or services rendered hereunder are defective in material or workmanship or otherwise not in conformity with the requirements of this Purchase Order, PPI shall have the right notwithstanding payment or any prior inspection or test or custom or usage of trade, either to reject it or to require its correction by and/or at the expense of the Seller promptly after notice.

7. Changes

Product Changes. The Seller shall notify PPI in writing prior to any change being made by the Seller in the material or services furnished. Such notification shall be forwarded to PPI at least (30) days prior to the proposed effective date of such change except for those cases where an extremely unsatisfactory condition requires immediate action, in which case the Seller shall promptly in writing so advise PPI. If, in the event of such change, in PPI's opinion, such change would alter the characteristics of the material or services in a manner unacceptable to PPI, then PPI may cancel the purchase of such material or service affected by such change without cost or liability to PPI whatsoever.

8. Quantity

No substitution of products, hours or labor category may be made without written permission from PPI. Unless otherwise agreed to, no deviation from the quantities specified will be accepted.

9. Subcontracts and Assignment

a) The Seller shall not subcontract with any other party without PPI's prior written authorization for the whole or any major component of any item or service ordered hereunder, and the Seller shall require a like agreement from its subcontractors. b) This Purchase Order and the money due there from may not be assigned without the prior written consent of PPI. c) Any attempt to assign with PPI's consent is void.

10. Pricing and Taxes

a) Seller represents that the prices charged for the Goods and Services purchased hereunder by PPI are and will at all times be the lowest prices charged by Seller to any buyer purchasing similar quantities under similar circumstances. In the event of any decrease in Seller's price for any Good or Service purchased pursuant to this Purchase Order in a quantity similar to that

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reflected hereon, or any other payment due to hereunder, Seller shall provide a corresponding credit or rebate to PPI within thirty (30) days or on the next invoice, whichever occurs sooner. The parties agree that the currency for any payments due hereunder shall be in U.S. Dollars. For any price termed "not to exceed", Seller warrants that the price charged to PPI is based on actual costs incurred by Seller for its performance with respect to the Good or Service in question.

b) Seller's prices for Goods and Services are inclusive of (i) all applicable local, state and federal taxes, and (ii) any other costs (including without limitation, set-up, testing and tooling costs and non-recurring engineering expenses) incurred by Seller in connection with the development or manufacture of products for sale to and delivery to destination. If state or local sales or use tax, value-added tax or custom duty tax is applicable to any of the Goods and Services, it will be so noted on the Purchase Order, and the Seller shall bill the tax separately on its invoice.

11. Payments

The seller shall issue a separate invoice for each Purchase Order and for each delivery under a Purchase Order. Seller shall submit an invoice within thirty (30) days of making a delivery. PPI will pay the Seller in accordance with the term specified in the Purchase Order. Invoices shall include, but not be limited to:

(i) purchase order number, (ii) discount terms, if any, (iii) item number, (iv) description of supplies or services (v) quantities, (vi) unit prices, and (vii) extended totals.

Unless otherwise agreed to in writing, the Seller shall be paid net [forty-five (45) days] from the latter of receipt of a properly prepared invoice in accordance with the above instructions or receipt of the Good or Service. Payment shall be deemed to have been made on the date Buyer's check is mailed or payment is otherwise tendered. Seller shall promptly repay to Buyer any amounts paid in excess of amounts due Seller.

12. Bankruptcy

Insolvency. If the Seller ceases to conduct its operations in the normal course of business, including inability to meet its obligations as they mature, or if any proceeding under the bankruptcy or insolvency laws is brought by or against the Seller, or a receiver for the Seller is appointed or applied for, or an assignment for the benefit of creditors is made by the Seller, PPI may terminate this Purchase Order without liability.

13. Drawings

Unless otherwise agreed to in writing, any drawings, plans, specifications, tools and other goods supplied by PPI in connection with the production of the goods being purchased shall remain the property of PPI and shall be returned upon demand or completion of this Purchase Order. The Seller shall keep such property safe and in good condition and shall not use it except in connection with sales to PPI.

14. Disclosure

Confidentiality. The Seller, on behalf of itself and its employees, agrees that any ideas, know-how, concepts, information, or processes received from PPI or created by the Seller in connection with the performance of this Purchase Order shall be the property of PPI and shall be preserved in strictest confidence by the Seller and shall not be used or disclosed by the Seller to third persons except to the extent that such use or disclosure is

necessary for the proper performance of this Purchase Order. If disclosure to a third party is necessary, the Seller shall insure that such third party holds such information in strictest confidence.

15. Stop-Work Order

PPI may, at any time, by written order to the Seller, require the Seller to stop all, or any part, of the work called for by this Purchase Order. The Seller shall immediately comply with the terms and conditions of the Stop-Work Order and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 30 days, PPI shall either (1) cancel the stop-work order; or (2) terminate the work covered by the order as provided in the default, or the termination for government's convenience clause. If a stop-work order is issued by PPI for the convenience of PPI, then PPI shall allow reasonable cost resulting from the stop-work order in arriving at the termination settlement. If a stop-work order is issued by PPI for default, PPI may allow reasonable costs resulting from the stop-work order.

16. Remedies

If, in PPI's judgment, the goods or services supplied by the Seller are defective or nonconforming or the Seller fails to comply in any material respect with any of the terms, and conditions or warranties of this Purchase Order, then PPI may, at its option:

(a) terminate this Purchase Order or any part hereof; (b) reject goods or services in whole or in part; (c) return goods to the Seller and charge the Seller with all costs, expenses and damages associated with such return; (d) purchase substitute goods or services elsewhere and charge the Seller for any loss, costs and damages incurred; or (e) require the Seller promptly to replace, repair or otherwise correct without expense to PPI any nonconforming goods or services. Any such replacements, repairs or corrections shall be subject to the warranties stated herein. Any other rights and remedies stated herein shall be in addition to any rights and remedies provided by law or equity, and shall survive inspection, test acceptance and payment.

17. Disputes

Any claim, controversy, or dispute that may arise under or in connection with this Purchase Order with respect to the rights, duties, or obligations of the Parties shall be reduced to writing and submitted for resolution to ascending levels of management of the respective Parties up to the Chief Executive Officer. Any dispute that cannot be resolved to both Parties' mutual satisfaction, after good faith negotiations, within ninety (90) days from the date the written claim is received by the other Party, or such additional time as the Parties agree upon, in writing, may be settled by appropriate legal proceedings including, with limitation, arbitration or litigation. The Seller shall proceed diligently with performance pending resolution of any such dispute by settlement or final judgment. No report to credit agencies shall be made by Seller until dispute is resolved by settlement or final judgment. By accepting this Purchase Order, the Seller consents to this condition in its entirety.

18. Termination For Convenience

a) PPI may terminate this Purchase Order, in whole or in part, by providing notice of such termination to the Seller, specifying the extent and effective date of such termination. On the specified termination date the Seller shall: (i) Stop performing its obligations

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under this Purchase Order, or any specified part thereof, as appropriate. (ii) Promptly take all commercially reasonable actions to limit amount for which PPI is responsible under paragraph "b)" of this clause. (iii) Promptly deliver to PPI all completed or partially completed goods to which the termination applies, as requested by PPI.

b) In the event of any termination pursuant to this clause, PPI's total liability shall be payment to the Seller for: (i) the purchase price of completed goods and services and a pro rata portion, based upon the degree of completion for partially completed goods or services if such completed or partially completed goods or services have been delivered to PPI and the Seller has not previously been compensated therefore, (ii) the Seller's direct costs and associated indirect costs for labor and products, plus a reasonable profit for work performed specifically for PPI and not allocable to completed or partially completed goods or services to be delivered to PPI pursuant to paragraph "a)" of this clause. (iii) Amounts determined by PPI to be reasonably paid by the Seller for any termination pursuant to this clause shall not exceed the purchase price of the goods and services to which such termination applies. The seller shall have no claim against PPI for work not performed, goods or services not delivered, loss of anticipated profits or consequential damages suffered by reason of any such termination. The seller shall submit any claims for compensation under this clause within thirty (30) day after the effective date of termination. The Seller hereby waives, releases, and renounces any claim for compensation not made within this period.

19. Termination for Default

a) PPI may cancel this Purchase Order, in whole or in part, to the extent the Seller fails to perform any of its material obligations under this order.

b) In the event and to the extent of any cancellation under this clause, all obligations of PPI and all rights and licenses of the Seller under the Purchase Order shall thereupon be canceled, and all rights and licenses of PPI and all accrued obligations of the Seller under the Purchase Order shall survive, but only with respect to the goods and services covered by the cancellation notice. The Seller shall continue to perform those obligations under this Purchase Order to the extent not canceled.

c) PPI may return, and the Seller shall have no claim against PPI for, Goods or Services not accepted and/or rejected by PPI. The Seller shall submit any claims for compensation under this clause within thirty (30) days after the effective date of Termination for Default. The Seller hereby waives releases and renounces any claim for compensation not made with this period.

d) If, after issuance of a default notice under this clause, it is determined for any reason that the Seller was not in default, or that the default was excusable under the provisions of this Purchase Order, then there will be no cancellation and the Purchase Order will be terminated for convenience in accordance with the provisions of the clause entitled "Termination for Convenience", as of the date the cancellation would have taken effect under this clause.

20. Force Majeure

Time is of the essence of this Purchase Order. Neither party shall be liable for delays due to causes not reasonably foreseeable which are beyond reasonable control, such as act of God, acts of civil or military authorities, act of terrorism, fires, strikes, floods, epidemics, war, or riots. In the event of any such delay caused by such event of force majeure, the date of performance shall be extended for a period of time equal to the time actually lost by reason of such delay, without cost to either party. Whenever the Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Purchase Order, the Seller shall immediately give PPI written notice thereof.

21. Indemnity

The Seller shall defend, indemnify, and hold harmless PPI, its subsidiaries, and their respective directors, officers, employees and agents (hereinafter referred to as "Indemnities") from and against all actions, causes of action, liabilities claims, suits, judgments, liens, award, and damages, of any kind and nature whatsoever for property damage, personal injury, or death and expenses, costs of litigation and counsel fees related thereto, or incidental to establishing the right to indemnification, arising out of or in any way related to this Purchase Order and/or the performance thereof by the Seller.

22. Infringement

The Seller shall at its own expense, hold harmless and defend PPI against any claim, suit, or proceeding brought against PPI which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished hereunder constitute an infringement of any patent, copyright, or trademark. The Seller shall pay all damages, costs, and expenses arising from such claims. In case the goods or services furnished hereunder, or any part thereof, are held to constitute infringement and the use of said goods or services or part is enjoined, the Seller shall, at its own expense, either procure for PPI the right to continue using said goods or services or replace the same with non-infringing goods or services. This clause shall not apply to any goods or services or part thereof manufactured or furnished to PPI's design.

23. Insurance

a) The Seller shall, and shall require its subcontractors to, keep all materials, tools, and equipment in which PPI has any interest insured against risk of loss or damage for their value at the Seller's own expense during such time as they remain in the Seller's possession.

b) The Seller shall also provide and maintain insurance in the following amounts:

- (i) Workmen's compensation insurance –statutory limits;
- (ii) General liability insurance –bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence;
- (iii) Automobile insurance –automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and

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\$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

24. Compliance with Laws

a) The Seller shall observe at all times all Federal, State, County, and Municipal laws or ordinances which in any manner affect the work herein specified. This Purchase Order incorporates, by reference, all applicable clauses relating to employment of the handicapped, employment of veterans, or utilization of minority contractors which are required under governmental laws, orders, or regulations to be included in any such order according to applicable conditions thereof. The Seller shall also require all of its agents, subcontractors, and employees to observe and comply with said laws and ordinances and shall indemnify and hold PPI harmless for all claims, damages, and expenses arising from or based on the violation of any such law or ordinance by the Seller or its subcontractors, agents, or employees.

b) The Seller hereby warrants that all goods and services provided hereunder shall conform with the Occupational Safety and Health Act (OSHA). In the event that such goods or services do not conform with OSHA, and PPI is penalized for such nonconformance, the Seller agrees to indemnify PPI for all penalties, costs, and expenses, including interest levied against PPI.

25. Severability

If any court or administrative body of competent jurisdictions shall find any provision of this Purchase Order to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

26. Conflicts

To the extent of conflicts, if any, among the provisions hereof or any attachments hereto, such conflicting provisions shall prevail in the following order of precedence:

a) Typed provision on the face of the Purchase Order; b) Purchase Order attachments; c) Printed terms and conditions; d) Specifications.

27. Applicable Law and Venue

The following applies to Purchase Orders issued by PPI, Mc Kee, Kentucky: This Purchase Order including these Terms and Conditions are governed by and construed exclusively under the laws of the State of Kentucky, USA. Both PPI and Seller hereby submit to the exclusive jurisdiction and venue of: (i) The Courts of General Jurisdiction of the State of Kentucky in the County of Jackson, or (ii) The Federal District Court for the District of Eastern Kentucky, in any lawsuit involving this Purchase Order. PPI and Seller hereby agree that the above sets forth the sole and exclusive jurisdiction and venue in which any lawsuit involving this Purchase Order may be filed.

28. Publicity

No news release, including photographs and films, advertisement, public announcement, website application or any part of the subject matter of this Purchase Order shall be made public by the Seller without prior written approval of Buyer.

29 Export Controls

In performing the obligations of any Purchase Order issued hereunder, vendor/subcontractor will comply with all applicable export, import and sanctions laws, regulations, orders and authorizations, as they may be amended from time to time, applicable to the export (including re-export) or import of goods, software, technology, (collectively, technical data) or services, including without limitation the Export Administrations Regulations (EAR), International Traffic in Arms Regulations (ITAR), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control (collectively, Export/Import Laws). Accordingly, the vendor/subcontractor shall not transfer technical data received from PPI to any foreign person, country, foreign subsidiary or parent corporation, without specific authorization from the disclosing party and pursuant to an appropriate U.S. Government license.

Additionally, to the extent the obligations of the vendor/subcontractor hereunder involves access to information classified by the U.S. Government as "Confidential" or higher, the provisions of all applicable federal laws, statues and regulations shall apply. The provisions of all applicable security and export control laws, statutes and regulations shall also apply hereto.