

**PHOENIX PRODUCTS, INC.**  
**SUPPLEMENTAL TERMS AND CONDITIONS FOR GOVERNMENT ORDERS**

**1. Conditions Applicable to Orders for Goods Destined for Use by The United States Government**

Where the face of this Purchase Order bears a Government contract number, the following clauses shall supplement PPI's Standard Terms and Conditions for Commercial Orders and to the extent of any inconsistency with PPI's Standard Terms and Conditions for Commercial Orders, the following clauses shall be controlling:

a) Termination

(i) PPI shall have the right at any time and for any reason to terminate this Purchase Order in its entirety or in part in accordance with the provisions of Federal Acquisition Regulations 52.249-1 "Termination for Convenience of the Government (Fixed Price) (Short Form)", 52.249-2 "Termination for Convenience of the Government (Fixed Price)", 52.249-4, "Termination for Convenience of the Government (Services) (Short Form)", or 52.249-6, "Termination (Cost Reimbursement)", as applicable (excluding any references to the Disputes Clause). These clauses are specifically incorporated herein by reference.

(ii) In addition to the rights conferred in subparagraph (i), PPI may terminate this Purchase Order for default if the Seller fails to make any delivery in accordance with the schedule set forth herein or for failure to comply with any of the other requirements or terms and conditions of this Purchase Order or for failure to make progress under this Purchase Order so as to endanger performance of this Purchase Order, and does not cure such failure within a period of ten (10) days after notice from PPI. In the event of termination for the Seller's default, PPI may procure commodities or services similar to those terminated and the Seller shall be liable for excess procurement costs. Further, the Seller shall be liable to PPI for any other remedies prescribed by law or equity.

b) Federal Acquisition Regulation (FAR)

(i) If this Purchase Order is for "commercial items" (i.e., an item that is customarily used for nongovernmental purposes and is made available to the general public), then this Purchase Order is subject to the following FAR clauses, all of which are hereby incorporated by reference:

- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.203-13 Contractor Code of Business Ethics and Conduct
- 52.203-14 Display of Hotline Posters(s)
- 52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009
- 52.204-2 Security Requirements
- 52.204-9 Personal Identity Verification of Contractor Personnel
- 52.204-11 American Recovery and Reinvestment Act –Reporting Requirements
- 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders –Commercial Items
- 52.219-8 Utilization of Small Business Concerns
- 52.222-3 Convict Labor
- 52.222-11 Subcontracts (Labor Standards)
- 52.222-20 Walsh-Healy Public Contracts Act
- 52.222-21 Prohibition of Segregated Facilities
- 52.222-22 Previous Contracts and Compliance Reports
- 52.222-24 Pre-award On-Site Equal Opportunity Compliance Evaluation
- 52.222-26 Equal Opportunity (Executive Order 11246)
- 52.222-34 (with Alternate I) Project Labor Agreement
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
- 52.222-36 Affirmative Action for Workers with Disabilities
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans

- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act
- 52.222-41 Service Contract Act of 1965
- 52.222-50 Combating Trafficking in Persons
- 52.222-51 Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment –Requirements
- 52.222-53 Exemption from Application of the Service Contract Act to Contracts for Certain Services –Requirements
- 52.222-54 Employment Eligibility Verification
- 52.223-7 Notice of Radioactive Materials
- 52.225-1 Buy American Act –Supplies
- 52.225-8 Duty-Free Entry
- 52.227-9 Refund of Royalties
- 52.244-6 Subcontracts for Commercial Items
- 52.245-1 Government Property
- 52.246-1 through -9 Contractor Inspection Requirement, Provisions and Clauses
- 52.247-64 Preference for Privately owned U.S. –Flag Commercial Vessels
- 52.248-1 Value Engineering

(ii) If this Purchase Order is for other than "Commercial Items" then this Purchase Order is subject to the following FAR clauses, all of which are hereby incorporated by reference:

- 52.202-1 Definitions
- 52.204-2 Security Requirements
- 52.204-9 Personal Identity Verification of Contractor Personnel
- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards
- 52.204-11 American Recovery and Reinvestment Act –Reporting Requirements
- 52.209-5 Certification Regarding Responsibility Matters
- 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment
- 52.211-15 Defense Priority and Allocation Requirements (applicable to rated order contracts only)
- 52.216-5 Price Redetermination –Prospective
- 52.216-6 Price Redetermination –Retrospective
- 52.222-11 Subcontracts (Labor Standards)
- 52.222-19 Child Labor –Cooperation with Authorities and Remedies
- 52.222-20 Walsh-Healy Public Contracts Act
- 52.222-21 Prohibition of Segregated Facilities
- 52.222-22 Previous Contracts and Compliance Reports
- 52.222-24 Pre-award On-Site Equal Opportunity Compliance Evaluation
- 52.222-26 Equal Opportunity
- 52.222-27 Affirmative Action Compliance Requirements for Construction
- 52.222-34 (with Alternate I) Project Labor Agreement
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
- 52.222-36 Affirmative Action for Workers with Disabilities
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
- 52.222-41 Service Contract Act of 1965, as Amended
- 52.222-50 Combating Trafficking in Persons
- 52.222-51 Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment –Requirements
- 52.222-53 Exemption from Application of the Service Contract Act to Contracts for Certain Services –Requirements
- 52.222-54 Employment Eligibility Verification
- 52.223-3 (with Alternate I) Hazardous Material Identification and Material Safety Date
- 52.223-6 Drug Free Workplace

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- 52.223-11 Ozone-Depleting Substances
- 52.225-1 Buy American Act –Supplies
- 52.225-8 Duty-Free Entry
- 52.225-13 Restrictions on Certain Foreign Purchases
- 52.227-9 Refund of Royalties
- 52.227-10 Filing of Patent Applications –Classified Subject Matter
- 52.227-11 Patent Rights –Ownership by the Contractor
- 52.227-13 Patent Rights –Ownership by the Government
- 52.227-14 Rights in Data –General
- 52.234-1 Industrial Resources Developed Under Defense Production Act Title III
- 52.234-4 Earned Value Management System
- 52.242-15 Stop-Work Order
- 52.243-1 Changes –Fixed Price
- 52.243-2 Changes –Cost Reimbursement
- 52.243-3 Changes –Time and Materials or Labor Hours
- 52.245-1 Government Property
- 52.245-2 Government Property (Fixed Price Contracts)
- 52.245-4 Government-Furnished Property (Short Form)
- 52.245-5 Government Property (Cost Reimbursement, Time and Material, or Labor Hour Contracts)
- 52.246-1 through -9 Contractor Inspection Requirement, Provisions and Clauses
- 52.247-63 Preference for U.S. –Flag Air Carriers
- 52.247-64 Preference for Privately Owned U.S. –Flag Commercial Vessels
- 52.248-1 Value Engineering
- 52.249-2 Termination for Convenience of the Government (Fixed Price)

(iii) FAR Clauses required on orders exceeding “simplified acquisition threshold” (\$150,000) (FAR 2-201):

- 52.203-3 Gratuities
- 52.203-5 Covenant Against Contingent Fees
- 52.203-6 Restrictions on Subcontractor Sales to the Government
- 52.203-7 Anti-Kickback Procedures
- 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity
- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity
- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.215-2 Audit and Records –Negotiation
- 52.215-14 Integrity of Unit Prices
- 52.215-22 Limitations of Pass-through Charges –Identification of Subcontract Effort
- 52.215-23 Limitations on Pass-Through Charges
- 52.219-8 Utilization of Small Business Concerns
- 52.222-4 Contract Work Hours and Safety Standards Act –Overtime Compensation
- 52.227-1 Authorization and Consent
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.228-5 Insurance –Work on Government Installation
- 52.229-3 Federal, State, and Local Taxes
- 52.233-3 Protest After Award
- 52.236-13 Accident Prevention
- 52.244-5 Competition in Subcontracting
- 52.247-64 Preference for Privately Owned U.S. –Flag Commercial Vessels

(iv) FAR clauses required when subcontractor cost or pricing data are required (\$700,000 and over)

- 52.203-13 Contractor Code of Business Ethics and Conduct

- 52.203-14 Display of Hotline Poster(s)
- 52.214-26 Audit and Records –Sealed Bidding
- 52.214-27 Price Reduction for Defective Cost or Pricing Data – Modifications –Sealed Bidding
- 52.214-28 Subcontractor Cost or Pricing Data –Modifications – Sealed Bidding
- 52.215-10 Price Reduction for Defective Cost or Pricing Data
- 52.215-11 Price Reduction for Defective Cost or Pricing Data – Modifications
- 52.215-12 Subcontractor Cost or Pricing Data
- 52.215-13 Subcontractor Cost or Pricing Data –Modifications
- 52.215-15 Pension Adjustments and Asset Reversions
- 52.215-18 Reversion or Adjustment of Plans for Post-Retirement Benefits (PRB) Other than Pensions
- 52.215-19 Notification of Ownership Changes
- 52.215-20 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data
- 52.215-21 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data –Modifications
- 52.215-22 Limitations on Pass-Through Charges –Identification of Subcontract Effort
- 52.215-23 Limitations on Pass-Through Charges
- 52.219-9 Small Business Subcontracting Plan (This clause does not apply to Small Business concerns)
- 52.230-2 Cost Accounting Standards (applicable to Large Business only)
- 52.230-3 Disclosure and Consistency of Cost Accounting Practices
- 52.230-6 Administration of Cost Accounting Standards
- 52.242-1 Notice of Intent to Disallow Costs (applicable only for cost reimbursement, fixed price incentive, or price redetermination orders)
- 52.242-3 Penalties for Unallowable Costs (applicable only for cost reimbursement, fixed price incentive, or price redetermination orders)

(v) Where necessary to make FAR Clauses consistent with this Purchase Order, the words “Government”, “contracting officer”, and similar words as used therein shall mean PPI, and the word “contractor” shall mean the Seller.

(vi) The Seller covenants and agrees that PPI’s contract price or a cost allowance is reduced by reason of the Seller’s failure to comply with an applicable Cost Accounting Standard or to follow any practice disclosed in its Disclosure Statement, PPI shall be entitled to:

- Reduce the price of this Purchase Order by an amount commensurate with the reduction in PPI’s contract price or cost allowance together with interest computed at the applicable Treasury rate; or
- In the event the Seller shall already have been paid the full Purchase Order price or essentially the full Purchase Order price, the Seller shall reimburse and indemnify PPI in an amount commensurate with the reduction in PPI’s contract price or cost allowance together with interest computed at the applicable Treasury rate.

**2. “Equal Opportunity” (FAR 52.222-26)**

a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal Contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with subparagraphs b) (i) through (xi) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During the performance of this contract, the Contractor agrees as follows:

(i) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian Reservation, in connection with employment

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opportunities on or near an Indian Reservation, as permitted by 41 CFR 60-1.5.

(ii) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to: employment; upgrading; demotion; transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(iii) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(iv) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(v) The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(vi) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(vii) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(viii) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(ix) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(x) The Contractor shall include the terms and conditions of paragraphs b)(i) through (xi) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(xi) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any action, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

### **3. Government Inspection**

If this Purchase Order bears a Government contract number, the Government has the right to perform government quality assurance at the Seller's plant as may be necessary to determine conformance with the

requirements specified for all services and/or supplies ordered herein. In addition, there may be further Government inspection rights provided by FAR citations (i.e., 52.246-2 through -9) or by PPI's Quality Terms, if applicable.

### **4. Anti-Kickback**

PPI prohibits the payment of any money, fee commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or connection with a subcontract relating to a prime contract. All suspected violations of this section must be reported immediately to PPI's President or CEO.

### **5. Order Completion and Closeout (applicable to Subcontracts) pursuant to a PPI Government or PPI Prime Contract**

Subcontractor agrees to close out this order within the following schedule:

- Firm fixed price orders: Final invoice must be submitted no later than 45 days following final delivery and must be marked as FINAL INVOICE.
- Fixed Price/Labor Hour orders: Final invoice must be submitted no later than 45 days following final delivery and must be marked as FINAL INVOICE.
- Time and Material orders: Quick closeout procedures shall be used to the maximum extent possible (reference FAR 42.708). Closing documents using quick closeout procedures shall be submitted within six (6) months of completion of the order. Where quick closeout is not authorized, closing documents shall be submitted within 24 months of completion of the order.
- Cost Reimbursement orders: Quick closeout procedures shall be used to the maximum extent possible (reference FAR 42.708). Closing documents using quick closeout procedures shall be submitted within six (6) months of completion of the order. Where quick closeout is not authorized, closing documents shall be submitted within 24 months of completion of the order.
- Special Note for Delivery/Task Order Contracts: Completion vouchers and documents shall be submitted on each delivery order within three (3) months of order completion. Any subsequent adjustments required on cost reimbursement elements will be made on the final delivery order, which will be closed out in accordance with the schedule specified for the contract type.

Failure to submit documents within the specified period will result in a unilateral closeout of the order by PPI.

### **6. Organizational Conflict of Interest**

Seller certifies that Seller has no organizational conflict of interest as defined in FAR 9.501.

### **7. DFAR Clauses**

- 252.230-7001 Prohibition on Persons Convicted of Fraud or Other Defense Contract Related Felonies
- 252.204-7000 Disclosure of Information
- 252.211-7000 Acquisition Streamlining
- 252.211-7003 Item Identification and Valuation
- 252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items
- 252.215-7004 Excessive Pass-Through Charges
- 252.217-7012 Liability and Insurance
- 252.222-7000 Restrictions on Employment Personnel
- 252.222-7006 Restriction on the use of Mandatory Arbitration Agreements
- 252.223-7006 (with Alternate I) Prohibition on Storage and Disposal of Toxic and Hazardous Materials
- 252.225-7007 Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies
- 252.225-7008 Restriction on Acquisition of Specialty Metals

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- 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals
- 252.225-7010 Commercial Derivative Military Article –Specialty Metals Compliance Certificate
- 252.225-7013 Duty Free Entry
- 252.225-7025 Restriction on Acquisition of Forgings
- 252.225-7048 Export –Controlled Items
- 252.226-7001 Utilization of Indian Organizations and Indian Owned Economic Enterprises –DoD Contracts
- 252.227-7013 Rights in Technical Data –Noncommercial Items
- 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation
- 252.227-7016 Rights in Bid or Proposal Information
- 252.227-7018 Rights in Noncommercial Technical Data and Computer Software –Small Business Innovation Research (SBIR) Program
- 252.227-7019 Validation of Asserted Restrictions –Computer Software
- 252.227-7033 Rights in Shop Drawings
- 252.227-7037 Validation of Restrictive Markings on Technical Data
- 252.227-7038 Patent Rights –Ownership by the Contractor (Large Business)
- 252.234-7002 Earned Value Management System
- 252.236-7013 Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers
- 252.237-7023 Continuation of Essential Contractor Services
- 252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts)
- 252.246-7003 Notification of Potential Safety Issues
- 252.247-7003 Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer
- 252.247-7023 Transportation by Sea
- 252.247-7024 Notification of Transportation by Sea
- 252.249-7002 Notification of Anticipated Contract Termination or Reduction