



TERMS & CONDITIONS

1. **Acceptance**

All Phoenix Pumps, Inc. quotations are valid for thirty (30) days from the quotation date unless agreed upon by Phoenix Pumps, Inc. (hereafter referred to as PPI). Quotations are limited only to those technical portions of the Engineer's Mechanical Specifications specifically referred to herein, and to the terms and conditions of sale as outlined in the quotation. In the event of conflict between terms and conditions of this document and the terms and conditions of any other documents between Buyer and PPI, this document shall govern.

2. **Terms**

All invoices are due upon receipt unless extended terms are approved by PPI. Terms are subject to review by PPI's Credit Department and are subject to change upon thirty (30) day notice to Buyer. For projects and contracts, partial payments or percentage of completion invoicing may apply and will be at the consent of PPI and Buyer. The Buyer's payment to PPI will not be dependent or contingent upon receipt of payment to the Buyer or any other parties. Any balance remaining beyond the negotiated terms will be subject to a monthly finance charge of 1.5% of the remaining balance until receipt of payment in full. Payment is not deemed complete and paid, until funds have been verified by PPI. Returned checks are subject to a \$35.00 collection fee. If Buyer fails to pay an invoice, PPI reserves the right to engage an attorney or collection agency to collect the balance due and to include collections and attorney's fees where applicable.

3. **Taxes & Other Charges**

Unless otherwise indicated, Sales and Use Tax, Retailer's Occupation, Service Occupation, Service Use, or similar taxes or charges, have *not* been included in the quotation price. Any taxes or charges which are applicable will be assessed at the time of invoicing and will be the responsibility of the Buyer. If the purchase is tax exempt, the Buyer is responsible to supply PPI all legally signed and completed documentation supporting exemption status. Buyer is responsible for obtaining permits and licenses relating to the sale or installation of the equipment.

4. **Warranty**

Manufacturers' Warranty:

All new parts and equipment supplied by PPI carry specific manufactures' warranty and will be covered by their respective terms. In the event there is a warranty claim, PPI will assist in working with the manufacturer or supplier to handle any warranty concerns.

Service Warranty:

PPI warrants all repairs and installation services (workmanship only) for a period not to exceed one (1) year from the date of repair/installation.

Exclusions:

PPI will not be liable for any loss incurred including but not limited to downtime, transportation and installations cost, consequential damages of any kind, items damaged by standard wear, neglect or abuse, items that have been altered or tampered with, and items which have not been operated or maintained in accordance with manufacturer specifications. All claims are subject to evaluation and approval by PPI.

5. **Security Interest**

Until all amounts due have been paid in full, PPI retains a security interest in the equipment and has all rights of a secured party under the Uniform Commercial Code including, without limitation, the right to take possession of the equipment without legal process and the right to require Buyer to assemble the equipment and make it available to PPI at a place reasonably convenient to both parties. At PPI's request, Buyer shall execute any financing statement or statements submitted by Seller in order that Seller's security interest in the equipment may be perfected.

6. **Changes & Delay-Cost**

If Buyer makes a change, delays or interrupts the progress of the delivery of pumps, parts or service, Buyer will reimburse PPI for any additional expense incurred. PPI reserves the right to ship and bill for goods/material when ready for shipment in accordance with agreed upon shipment or delivery terms as indicated within the quotation.

7. **Delays**

PPI shall not be liable for delay in delivery caused by any reason beyond PPI's control, including but not limited to the Buyer's delay in promptly submitting all information and/or documentation, acts of God, casualty, civil disturbance, labor disputes, strikes, transportation, supply difficulties, any interruption of the seller's facilities, or any of the governmental authorities. In the event of such conditions, PPI is entitled to cancel the order or to extend the time for delivery.

8. **Claims**

Buyer shall immediately inspect the equipment upon receipt. PPI is not obligated to consider any claim for shortages or non-conformance unless notified by Buyer within 24 hours after Buyer's receipt of equipment. Modifications to the equipment furnished by PPI to meet OSHA or local safety codes will not be the responsibility of PPI unless specifically requested and agreed upon. PPI will supply only the safety devices, if any, described in the order. PPI assumes no responsibility for any costs, direct or indirect resulting from disapproval of our tender by the owner.

9. **Transportation Expense**
Unless otherwise noted, the prices listed in the quotation do not include freight. Freight charges will be determined at time of shipment. In the event, that freight (Prepaid and Allowed) is included within the proposal, PPI reserves the right to use the lowest available freight rates on a common carrier of our choice. If the Buyer requires PPI to ship another carrier, the Buyer will bear any additional expense. All freight is shipped F.O.B. factory, unless otherwise noted, and becomes the responsibility of the Buyer once shipped. For PPI to insure delivery, it is agreed by the Buyer to provide all necessary access to specified location, which would include standard vehicle/truck accessibility. The responsibility for the protection of the equipment will be the Buyers after it is delivered to the specified location. Damage to the equipment after delivery which is caused by vandalism, the elements or otherwise, will be the responsibility of the Buyer.
10. **Indemnity**
It is expressly understood that PPI's liability for products is limited to the furnishing of replacement parts. PPI will not be liable for any other expense, injury, loss or damage, whether direct or consequential, including but not limited to loss of profits, production, increased cost of operation, or spoilage of material, relating to the resale or use of the equipment or products for any purpose except as provided.
11. **Liquidated Damages**
PPI will diligently execute the engineering and fabrication of the proposed equipment; however, we are unable to accept any liquidated damages or penalty clauses for failure to complete shipment as designated in this proposal.
12. **Installation Representative**
At the Buyer's request, and subject to PPI's option and availability of personnel at time of requirement, PPI can provide a service representative to advise the Buyer, concerning the installation and use of purchased equipment. These services are not supervisory but are advisory only, and are offered subject to the express understanding that PPI's function and responsibility is limited to interpretation of assembly drawings and identification of materials for their proper location in the equipment or system layouts. This PPI service is offered on a "no risk" basis and at the current service hourly rate.
13. **Cancellation**
Cancellation or suspension of a contract will be accepted only upon terms that will indemnify PPI against loss. PPI deems the right to cancel any orders prior to or at the time of receiving the final approved drawings. In this event, the Buyer will be refunded any deposits made to PPI.
14. **Contract**
Buyer agrees that this contract contains the complete and final agreement between PPI and the Buyer and may not be modified, supplemented, explained, or waived by oral evidence, your purchase order, course of dealing, or any other way, except where made in writing and signed by the Buyer and a PPI authorized officer.
15. **Arbitration**
Any dispute or claim arising out of or relating to this transaction shall be settled by arbitration in accordance with Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitration may be entered in any court having jurisdiction hereof.
16. **Confidential Information**
All information and data herein furnished to Buyer hereunder, relating to price, size, type and design is submitted with the understanding that it is for the Buyer's own confidential use and is not to be shown or otherwise made known or available to any third party at any time without PPI's written consent.
17. **Venue**
Any litigation arising out of, or related to credit extended by PPI or to products purchased by Buyer shall take place in Maricopa County, Arizona.
18. **Pre-lien's**
Upon request from PPI, Buyer agrees to provide in a timely manner, all pertinent information regarding specific jobs for filing pre-lien notices.
19. **Validity**
Should an individual section of these conditions – regardless of reason – be invalid, this will not affect the validity of the remainder of this document.
20. **Export Sales**
Buyer agrees that it will not divert, use, export or re-export the products contrary to the United States Law. Buyer expressly acknowledges and agrees that it will not export, re-export, or provide the products to any entity or person within any country that is subject to United States economic sanctions imposing comprehensive embargoes without obtaining prior authorization from the United States Government. The list of such countries subject to United States economic sanctions or embargos may change from time to time but currently includes: Cuba, Iran, Sudan and Syria. Buyer also expressly acknowledges and agrees that it will not export, re-export or provide the products to entities and persons that are ineligible under United States law to receive such items, including but not limited to, any person or entity on the United States Treasury Department's list of Specially Designated Nationals or on the United States Commerce Departments Denied Persons List, Entity List or Unverified List.
21. **Will-Call**
Purchases which are requested to be held at will-call are stored for a maximum of 14 days. Any purchases that exceed 14 days will be shipped to Buyer. All freight costs associated with the shipment of will-call purchases will be the responsibility of the Buyer.