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A Premier Manufacturer of Generator Enclosure and Base Tanks, Aboveground Fuel Storage Tanks and Fuel Delivery Systems

PHOENIX PRODUCTS TERMS & CONDITIONS

- This offer to sell is made subject to buyer's acceptance within thirty (30) days from the quotation date.
- All quoted prices are subject to change without notice.
- Acceptance of a purchase order is subject to management and credit approval.
- Phoenix Products agrees to provide product submittal drawings within 2 to 4 weeks of receipt of purchase order.
- Buyer must approve submittal package before Phoenix Products will begin material procurement or manufacturing process.
- All quoted prices are subject to change based on material cost increases due to excessive time lapse of submittal approval by Buyer.
- Quoted lead time shall be subject to change based on current Phoenix Products manufacturing burden and lead time of purchased materials at time of submittal approval.
- Manufacturing lead time shall be contingent upon receipt of customer furnished materials.
- In the case of incorrect or unplanned customer furnished materials causing delays or changes to the design or manufacturing of the product, Buyer shall be responsible for payment in full of costs incurred to Phoenix Products whether costs are materials, labor, engineering time or outside service charges.
- A 25% restocking fee will be assessed for all cancelled orders or returned materials. In addition, a charge of \$125 per engineering hour spent will be assessed for cancelled projects.
- In the case of project cancellation or scope modification, where such project cancellation or scope modification makes materials obsolete to the purpose of the project, Buyer shall be responsible for payment in full of costs incurred to Phoenix Products due to the fabrication, purchase, and/or installation of obsolete materials.
- No retainage to be withheld. Phoenix Products is an equipment supplier not a sub-contractor.
- No sales tax is included.
- Buyer grants to seller a security interest in all equipment described in the quotation until such time as payment is made in full.
- Delivery of the material quoted herein is contingent upon strikes, fires, prior sales, government action and other causes unavoidable or beyond our control.
- The project will be invoiced upon completion of the project unless otherwise agreed by the parties.
- Payment in full is due thirty (30) days from the date of invoicing, subject to credit approval.
- Buyer agrees to retrieve the completed project from Phoenix Products' property no later than thirty (30) days after invoicing.

- Buyer agrees to pay a storage fee in the amount of up to \$10 per day for each day beyond the thirty (30) day period referenced above which the project remains on Phoenix Products' property. Payment for storage fees is due in full at the time Buyer picks up the project.
- The conditions of this quotation become a part of any order resulting here from, and any purchase order submitted in response to this quotation which modifies, alters, or adds to these conditions shall not be binding unless accepted by Phoenix Products in writing.
- There are no agreements, understanding or stipulations relative to this quotation other than those expressed herein.
- Title to and risk of loss shall pass from Phoenix Products to Buyer when products are loaded at the Phoenix facility, notwithstanding any shipment terms to the contrary and regardless of any shipping or insurance arrangements made by Buyer. Except to the extent Phoenix Products and Buyer otherwise agree in writing. Buyer shall select the carrier and be responsible for freight handling and insurance charges from Phoenix Products' location to the place of destination. In those instances in which Phoenix Products selects the carrier or pays for freight charges, Phoenix Products may insure full value of the products shipped at Buyer's expense or declare full value to the transportation company at time of shipment.
- These terms and conditions are to be interpreted under and governed by Florida law. The parties consent to jurisdiction of the state and/or federal courts in and for Duval County, Florida for any dispute arising out of or relating to the transaction that is subject of these terms and conditions. In any such dispute, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. The parties waive their rights to a jury trial.

DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

The foregoing warranty is in lieu of and excludes all other warranties, express or implied by operation of law or otherwise, including, but not limited to, any implied warranties of merchantability or fitness, both of which are expressly disclaimed. Buyer understands and agrees that all warranties implied by the provisions of the uniform commercial code are excluded. Buyer's exclusive remedy and Phoenix Products' limit of liability for any and all losses or damages resulting from nonconforming goods or tender, or from any other cause, shall be the contract price of the goods.

Under no circumstances shall Phoenix Products be responsible for any indirect, incidental or consequential damages or economic losses relating to any alleged defect in, or failure of, the goods or any component part of, or attachment to, thereof.

In the event that the project remains on Phoenix Products' property beyond the thirty (30) day period referenced above, customer agrees to defend, indemnify and hold harmless Phoenix Products, its parent, subsidiaries, officers, employees, owners, successors, assigns and designees (the "indemnified parties") from and against any and all liabilities, claims, demands, loss, damage or cost (including attorneys' fees), including incidental, consequential and other indirect damages, sustained by itself or any person or property arising out of the handling or storage of the goods by Phoenix Products or a breach of any warranty or representation by customer.