

STANDARD TERMS AND CONDITIONS OF SALE
(The Phoenix Company of Chicago, Inc. herein called "Phoenix")

1. Any difference between the order and instructions submitted by Buyer shall be deemed to have been waived by Buyer in favor of Phoenix's terms and conditions upon Buyer's failure to object in writing within 10 days after receipt of acknowledgment; stenographic and clerical errors are subject to correction. No waiver, alterations or modifications of any of the provisions of these terms and conditions shall be valid unless signed by an authorized representative. Failure of Phoenix to object to modifications or additional conditions inserted in any order from Buyer shall not be construed as a waiver of this Condition of Sale, nor as an acceptance of any such modification or additional condition inserted. All orders are subject to acceptance at our office at Wood Dale, Illinois.
2. Notwithstanding any statement of terms or time payments appearing on the face of this order, Phoenix reserves the right to require payment in advance of shipment or to ship C.O.D. It is agreed that title to and the right to possession of any article not fully paid for at time of delivery to Buyer, shall be retained by and remain in Phoenix until said purchase price is fully paid. Quotations automatically expire 30 calendar days from the date issued and can be terminated prior thereto by notice from Phoenix within such period. This quotation is based upon the quantity and shipping schedule specified on the reverse hereof. All prices quoted are based upon current costs to Phoenix of materials and outside services; such prices are subject to increase if such costs are increased. Quantity prices are based on releases by Buyer within 90 days. Phoenix shall also retain a lien on any tools, molds, inserts or components owned by Buyer and in possession of Phoenix until full payment of Buyer's account.
3. All shipments will be made in accordance with the instructions contained in Buyer's purchase order. If such instructions are changed, all additional shipping or handling charges will be borne by Buyer. In the absence of shipping instructions, Phoenix reserves the right to use its own discretion when routing.
4. Phoenix's policy is to earnestly endeavor to comply with the requests of its customers respecting deliveries. All shipments of articles to be made under any order shall be subject to government priorities or allocations in effect from time to time. Phoenix shall under no circumstances be responsible for failure to fill any order or orders when due to fires, floods, riots, strikes, freight embargoes or transportation delays, shortage of labor, fuel, material, supplies or power, acts of God or of the public enemy, any existing or future laws or acts of the federal or any state government (including specifically but not exclusively, any orders, rules or regulations issued by any official or agency of any such government) affecting the conduct of Phoenix's business, or to any other cause beyond Phoenix's reasonable control.
5. Prices quoted do not include the cost of any qualification tests.
6. The price of any article in this contract is based on the contemplated delivery of the full quantity ordered. If this quantity is reduced for any reason, Phoenix reserves the right to adjust the unit price.
7. The prices stated herein do not include any federal, state or local manufacturer's tax, or sales, use, excise or similar taxes applicable to the sale, delivery or use of articles here under and the Buyer shall pay to Phoenix in addition to the prices herein specified, the amount of any such tax which may be imposed upon or payable by Phoenix.
8. Make Ready Charges - Buyer's payment to Phoenix of Make Ready Charges shall not convey title to Buyer of any tooling, dies, jigs, moldings or any other property.
9. Articles may be returned only with Phoenix's written consent. Such articles shall be returned in accordance with Phoenix shipping instructions, all returned shall be subject to a 10% minimum handling charge. Articles made upon special order to meet Buyer's requirements are not returnable.
10. Orders placed cannot be canceled by the Buyer, nor can deferred deliveries of goods made up or in process be extended beyond the original delivery date specified except with Phoenix's consent and upon terms hereinafter set forth. Phoenix reserves the right to process in advance all articles purchased on a deferred delivery basis. In the event that Phoenix should consent to accept cancellation of any order, adjustment shall be made by the following method:
 - 1) All articles which are completed and ready for delivery on the date that such cancellation becomes effective, will be paid for by the Buyer at the unit order price payable upon delivery to the Buyer.
 - 2) As to all such articles not so completed and ready for delivery, the Buyer shall have the option (with respect to all or any part thereof):
 - A) Of requiring completion and paying the unit price therefore, or
 - B) Of compensating Phoenix for the partially completed and uncompleted portion of the order.
 - (1) By reimbursing Phoenix for all actual expenditures made with respect to the partially completed and uncompleted portion of the order.
 - (2) By reimbursing Phoenix for all expenditures made in setting or discharging that portion of its outstanding obligations of commitments which had been incurred or entered into with respect to the partially completed and uncompleted portion of the order; and
 - (3) By paying Phoenix as a profit on the partially completed and uncompleted portion of the order, a sum to be computed in the following manner:
 - (a) Estimate the profit which would have been realized by Phoenix on the partially completed and uncompleted portion of the order if the same had been completed and labor and materials costs prevailing at the date of termination had remained in effect;
 - (b) Estimate from the consideration of all relevant factors, the percentage of completion of the partially completed and uncompleted portion of the order; and
 - (c) Multiply the anticipated profit as determined under (a) by this percentage determined under (b) the result is the amount to be paid to Phoenix as a proportionate of all share of profit as above provided.
11. Phoenix shall not be liable for any claims whatsoever, unless it shall have received from Buyer within 30 days from date of shipping, written notice of such claims specifying in detail and with reliable certainty all defects or defaults forming the basis of such claims. Buyer agrees that Phoenix's liability for loss or damages on any claim of any kind, including, without limitation, negligence in manufacture, engineering or design, or breach or contract or warranty, is limited to an amount equal to the price of the items ordered. Additionally, again without limitation, Buyer further agrees that Phoenix shall not be liable for any penalty or for an indirect, special, secondary, punitive, or consequential damages, such as loss of profits or revenue, loss of or damage to other equipment, or claims of third parties against the Buyer, all such liabilities being waived, discharged and released by Buyer. Buyer warrants that all items manufactured by Phoenix in accordance with specifications provided by Buyer shall be free of the rightful claim of any person arising from a patent or trademark, and the Buyer agrees to indemnify and hold Phoenix harmless against any and all losses, damages, and costs including attorneys' fees, which it might incur as a result of the infringement, or alleged infringement, of any patent or trademark, resulting from its manufacturing activities in accordance with such specifications.
12. Variation in quantity – No variation in quantity will be accepted without prior approval of the Buyer.
13. The rights and obligations of the parties pursuant to this order and the construction of the terms hereof shall be governed and controlled by the State of Illinois.
14. Phoenix agrees to comply with the applicable provisions of the fair labor standards act of 1938, as amended, and the regulations issued pursuant thereto and all laws restraining the employment or use by Phoenix of any convict labor.
15. In the event Phoenix is required, in its sole judgment, to take legal action to enforce collection of any invoice issued pursuant to this contract, Buyer agrees to pay all costs of such delinquency and collection action, including interest on the balance outstanding from the date said sum becomes due, at the rate of 21% per annum, and including reasonable attorney fees and costs of collection.