



A. GENERAL TERMS AND CONDITIONS FOR SERVICES

1. Applicability.

- a. These terms and conditions (the "Terms") for services ("Services") are the only terms that govern the provision of services by Phoenix Laser Solutions, LLC ("Phoenix Laser") to Customer, whose name appears on the front side of this document, or on Phoenix Laser's Quote, Order Acknowledgment, Invoice or Packing Slip (the "Customer Order Documents").
- b. The Customer Order Documents and these Terms (collectively, this "Agreement") comprise the entire Agreement between the parties, and supersede all prior or contemporaneous order requests, quotes, documents, terms, understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the Customer Order Documents, these Terms shall govern.
- c. These Terms prevail over any of Customer's general terms and conditions regardless of whether or when Customer has previously submitted its request for quote, order, or its terms. Provision of services to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms.

2. **Services.** Phoenix Laser shall provide the Services to Customer pursuant to Customer's specifications as set forth in the Agreement and industry standards, using personnel of commercially reasonable skill and experience.

3. **Performance Dates.** Phoenix Laser shall use reasonable efforts to meet any performance dates specified in the Agreement, and any such dates shall be estimates only. Time shall not be of the essence in this Agreement.

4. **Customer's Obligations.** Customer shall:

- a. Provide accurate drawings, specifications, and other information necessary for Phoenix Laser to perform the Services.
- b. Cooperate with Phoenix Laser in all matters relating to the Services and respond promptly to any Phoenix Laser request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Phoenix Laser to perform Services in accordance with the requirements of this Agreement.
- c. Not suspend performance of the Services for convenience. Upon any such suspension, Phoenix Laser shall be entitled to payment for all Services performed prior to termination.

5. Customer's Acts or Omissions. If Phoenix Laser's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Phoenix Laser shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.
6. Fees and Expenses; Payment Terms; Interest on Late Payments; Security Interest.
 - a. All quotes made by Phoenix Laser expire after thirty (30) days from the date which they are sent to Customer.
 - b. In consideration of the provision of the Services by Phoenix Laser and the rights granted to Customer under this Agreement, Customer shall pay the fees set forth in the Agreement.
 - c. Customer shall pay all invoiced amounts due to Phoenix Laser within thirty (30) days from the date of Phoenix Laser's invoice.
 - d. In the event payments are not received by Phoenix Laser within thirty (30) days after becoming due, Phoenix Laser may:
 - i. charge interest on any such unpaid amounts at a rate of one and one-half percent (1.5%) per month or, if lower, the maximum amount permitted under applicable law, from the date such payment was due until the date paid;
 - ii. suspend performance for all Services until payment has been made in full;
 - iii. recover all costs of collection, including reasonable attorneys' fees.
 - e. Customer hereby grants to Phoenix Laser a security interest in any goods or material upon which Phoenix Laser has provided Services until all monies due Phoenix Laser under the Agreement are paid in full. Phoenix Laser shall have the right to file financing statements and any other documents that may be necessary to evidence and perfect such a security interest in the goods or material in any jurisdiction.
7. Shipping. Customer is responsible for arranging shipping of all incoming and outgoing goods and materials. Customer bears risk of loss during transportation and shall maintain appropriate insurance to cover such risk of loss.
8. Taxes. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder.
9. Confidential Information.
 - a. All non-public confidential or proprietary information belonging to Phoenix Laser, including, but not limited to, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing (collectively, "Confidential Information"), disclosed by Phoenix Laser to

Customer, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential,” in connection with the provision of the Services and this Agreement is confidential, and shall not be disclosed or copied by Customer without the prior written consent of Phoenix Laser.

b. Phoenix Laser shall be entitled to injunctive relief for any violation of this Section.

10. Disclaimer of Warranties. PHOENIXLASER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; OR (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

11. Limitation of Liability.

a. IN NO EVENT SHALL PHOENIXLASER BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT PHOENIXLASER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

b. IN NO EVENT SHALL PHOENIX LASER’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO PHOENIXLASER PURSUANT TO THIS AGREEMENT.

12. Termination. In addition to any remedies that may be provided under this Agreement, Phoenix Laser may terminate this Agreement with immediate effect upon written notice to Customer, if Customer:

- a. Fails to pay any amount when due under this Agreement and such failure continues for 5 days after Customer’s receipt of written notice of nonpayment;
- b. Has not otherwise performed or complied with any of the terms of this Agreement, in whole or in part; or
- c. Becomes insolvent, files a petition for bankruptcy or commences or has commenced against proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

13. Change Orders. If Customer requests changes to the Services subject to this Agreement, Phoenix Laser shall have the right to modify the price and/or delivery dates set forth in the Agreement. No changes to the Services shall be binding upon Phoenix Laser until Customer has agreed to the

revised price and/or delivery date in writing, and Phoenix Laser has agreed to provide the revised Services in writing.

14. Indemnification. If the goods or materials upon which the Services are performed become the subject of a claim, lawsuit, arbitration or other dispute resolution proceeding, Customer shall indemnify and hold harmless Phoenix Laser and its officers, directors, employees, shareholders, agents and representatives from any losses, damages and/or expenses (including reasonable attorneys' fees).
15. Waiver. No waiver by Phoenix Laser of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Phoenix Laser. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
16. Force Majeure. Phoenix Laser shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Phoenix Laser including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes, or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.
17. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
18. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.
19. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Pennsylvania or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Pennsylvania.
20. Submission to Jurisdiction; Attorneys' Fees. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Pennsylvania in which the City of Meadville and

County of Crawford are located, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. If Phoenix Laser files a lawsuit as a result of Customer's breach of this Agreement, Phoenix Laser shall be entitled to receive reasonable attorneys' fees and expert witness fees.

21. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each a "Notice") shall be in writing and addressed to the parties at the addresses set forth in the Order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid).
22. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term of provision in any other jurisdiction.
23. Survival. Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Compliance with Laws, Confidentiality, Governing Law, Submission to Jurisdiction, and Survival.
24. Amendment and Modification. This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each party.
25. All invoices paid by credit card are subject to a 3.0% processing fee.

B. Vendor's Obligations. Vendor shall:

1. Obtain the latest standards or specs referenced on PO; customer is responsible for implementing a quality management system and using customer-designated or approved external providers (including process sources).
2. Notify Phoenix Laser of non-conforming processes, products, or services and obtain approval for their disposition.
3. As appropriate to the product, plan, implement, and control processes for the prevention of counterfeit or suspect counterfeit part use and their inclusion in product delivered to Phoenix Laser
4. Notify Phoenix Laser of changes to processes, products, or services, including changes of your external providers or location of manufacture, and obtain Phoenix Laser's approval.
5. Notify your external providers of applicable requirements, including those of our customer.
6. Provide test specimens for design approval, inspection/verification, investigation, or auditing.
7. Retain documented information, including retention periods and disposition requirements.

8. Be aware of the right of access by Phoenix Laser, our customer, and regulatory authorities to the applicable areas of facilities and to applicable documented information.
9. Ensure that employees at all levels in your organization are aware of their contribution to product conformity and safety and the importance of ethical behavior.