

STANDARD PURCHASE TERMS and CONDITIONS

1. **Offer and Acceptance.** This Purchase Order constitutes an offer by WEPUKO PAHNKE ENGINEERING L.P. ("WPE") to purchase the goods and services according to the description and other terms and conditions stated herein; references to "WPE's Customer" shall mean (if applicable) the customer of WPE for which WPE is producing a product and Seller's product or Seller's services hereunder are a required component. Seller's price is all inclusive, and Seller shall furnish and pay for all labor, materials, tools, equipment, accessories and other goods and services required to perform and provide completely the goods and services purchased by WPE pursuant to this Purchase Order. Seller shall provide (i) all material chemical, test and heat treatment certificates, and (ii) for all manufactured parts to WPE's designs, detailed dimensional inspection reports, in each case unless specifically waived in this Purchase Order. Acceptance of this Purchase Order is expressly limited to the terms and conditions contained herein and no additional or different terms offered by Seller (whether in Seller's quotation, order acknowledgment or other documentation) shall be or become part of this Purchase Order, and any such items are hereby rejected; without limiting the foregoing, clauses purporting to limit Seller's liability shall not be effective unless agreed to in a writing signed by WPE. Upon Seller's acceptance of this Purchase Order or Seller's commencement of work on or with respect to the goods or material of any performance of the labor or work, in any manner, this Purchase Order (together with WPE's drawings, plans, specifications, standard policies and procedures and those of WPE's Customer) will become a contract constituting the entire agreement between the parties, and will supersede all prior or contemporaneous discussion, negotiation, representation, or agreement (as well as any conflicting terms of any Seller's quotation, order acknowledgment or other Seller documentation). Adjudication that any provision hereof is not enforceable shall not affect the enforceability of remaining provisions.

2. **Changes.** This Purchase Order shall not be modified by Seller without the express written approval of WPE, however, WPE may at any time by written notice make changes within the general scope of this Purchase Order. If any such change affects the time, cost or quality of performance, an equitable adjustment shall be made in the affected contract provision by agreement of the parties. All claims by Seller for adjustment under this clause must be asserted in writing and in full within 30 days from the date of notification of the change or shall be waived. Nothing herein shall excuse Seller from proceeding with the Purchase Order as changed. No extras shall be allowed except pursuant to written changes initiated or accepted in writing by WPE and this clause.

3. **Non-waiver.** Any waiver or failure of WPE to require strict compliance with the provisions of this Purchase Order in any respect shall not be deemed a waiver of WPE's right to insist upon strict compliance in the other respects or thereafter in the same respect.

4. **Warranty.** Seller warrants to WPE and to WPE's Customer that all goods and services covered by this Purchase Order will strictly conform to the specifications, drawings, samples or other descriptions furnished or specified by WPE or WPE's Customer, will be merchantable, of good material and workmanship, free of defects (including latent defects), and fit for the purpose intended. Without limiting any other right or remedy available to WPE or to WPE's Customer, in the event of a breach of any of Seller's warranties, at the option of WPE, Seller shall re-perform or replace the services or goods in question immediately and at the sole cost and expense of Seller; in the event that any WPE product must be destroyed or scrapped as a result of a breach of Seller's warranties or other obligations under this Purchase Order, Seller shall reimburse WPE on demand for all costs and expenses incurred (including the full value of the product in question). WPE's approval of Seller's drawings shall not relieve Seller of any of Seller's obligations hereunder. If the goods, material, labor or work is purchased by WPE for resale or for fabrication or use in goods or products to be resold by WPE, the warranty period shall extend for 18 months after acceptance by the final end user but shall not exceed 36 months from delivery. If the goods, material, labor or work are not for such resale, the warranty shall be for 18 months from final acceptance by WPE. THIS EXPRESS WARRANTY SHALL BE IN ADDITION TO ANY OTHER IMPLIED BY LAW.

In addition, if Seller fails at any time to comply with the requirements of this Purchase Order, Seller shall be liable to WPE for any costs or damages, including without limitation increased overhead and out-of-pocket expenses, sustained by WPE as a result of such failure or delay, including without limitation any damages, liquidated or otherwise, for which WPE may be liable to WPE's Customer or others.

Seller agrees that this warranty shall inure to the benefit of WPE and WPE's Customer and that WPE and/or WPE's Customer shall have the right to enforce the terms of this warranty.

All of Seller's warranties shall survive inspection, testing, acceptance and payment.

5. **Indemnification.** Seller will indemnify and hold harmless WPE and WPE's Customer from any and all claims, demands, liens, liabilities, suits, (including without limitation expenses or losses arising therefrom including attorneys' fees and costs of suit), directly or indirectly due in whole or in part to defects in the goods, materials, labor or work furnished hereunder, breach of warranty or otherwise to the performance of services or purchase of products from Seller hereunder.

6. **Inspection.** All goods, material, labor or work covered by this Purchase Order are subject to inspection, testing and final acceptance by WPE or WPE's Customer. Payment or commencement of use by WPE or WPE's Customer, prior to inspection shall not constitute acceptance of the same. Any inspection or approval at Seller's plant or elsewhere during or after manufacture, shall be provisional only, and shall not constitute final acceptance of the goods or work.

WPE or WPE's Customer shall not accept the goods or work until WPE or WPE's Customer, in its sole discretion, determines Seller has complied in all respects with the requirements of this Purchase Order and has completed the performance hereunder.

Goods or services which are nonconforming, shall at WPE's option, be repaired, replaced or re-performed at Seller's sole expense and any goods or services furnished pursuant to this repair, replacement or re-performance shall be subject to the same warranty as provided in Section 4. If WPE or WPE's Customer rejects nonconforming goods, they may be returned at Seller's expense, without prior notice to Seller.

7. **Patents.** Seller shall at its expense, settle or defend and pay all costs and damages awarded in any suit against WPE or its vendors to the extent it is based upon a finding that the design or construction of articles as furnished infringes a United States patent (except infringement occurring as a result of incorporating a design or modification at the request of WPE), provided WPE promptly notifies Seller of any charge of infringement and Seller is given the right to settle such charge and defend or control the defense of any suit based upon such charge.

8. **WPE's Identification.** Seller agrees that WPE's identification, such as trademarks, trade names, distinctive marking, or decorative styling shall be used only on articles supplied to WPE.

9. **WPE's Premises.** Work on WPE's or WPE's Customer's premises shall be performed in accordance with the safety rules of WPE or WPE's Customer and applicable federal, state and local laws and regulations. Seller shall comply fully with laws pertaining to worker's compensation and unemployment compensation or insurance, and Seller shall indemnify and save harmless WPE, its employees, agents, licensees and invitees from any and all losses, costs, damages, claims and expenses (including reasonable attorneys' fees) of any nature whatever relating to (a) injuries, occupational diseases or deaths of any employee or subcontractor of Seller, to the extent compensable under the worker's compensation laws of any state, (b) bodily injuries, death or property damage caused by the negligent or wrongful act of Seller, any subcontractor of his, or any employee or agent of either, and (c) unemployment compensation or insurance, social security taxes, or other federal, state or municipal taxes, contributions or benefit payments measured by or based on employment of such employees. Seller shall also obtain and maintain insurance against loss or damage to any product or other property of WPE that is in Seller's possession, custody or control pursuant to this Purchase Order. Prior to commencement of such work, Seller shall furnish to WPE a certificate of insurance evidencing that Seller and its subcontractors have worker's compensation and employers liability coverages in accordance with state requirements, but not less than \$[100,000] per occurrence, Comprehensive General Liability Coverage including products and completed operations, and contractual liability coverages of at least \$[1,000,000] per occurrence limit of liability respectively for bodily injury, and property damage, and Comprehensive Automobile Liability Coverage including hired and non-owned auto coverage of at least \$[1,000,000] per occurrence limit of liability respectively for bodily injury and property damage. All insurance carriers must be "A" rated by A.M. Best Co., and except for worker's compensation, WPE shall be named as an additional insured on all policies.

10. **Seller's Pricing and Purchases.** Seller agrees that if any products required for filling this Purchase Order are manufactured or sold by WPE, such items will be purchased from WPE provided WPE's prices and delivery dates are competitive. Seller agrees that the price and terms at which products or services are provided to WPE hereunder will be the lowest prevailing price and best terms for such products or services offered by Seller to any of its customers.

11. **Quality Plans.** For certain goods WPE may provide a Quality Plan (and Seller shall comply with the Quality Plan) with detailed specifications related to goods to be purchased by WPE from Seller.

12. **Quality Assurance.** Seller will maintain a quality assurance system which is adequate to detect and prevent shipment of non-conforming goods and services. WPE and WPE's Customer reserve the right to audit and evaluate the adequacy of Seller's quality assurance program

13. **Tools and Materials.** All tools, gauges, dies, fixtures and patterns furnished by WPE, or which WPE specifically authorizes Seller to acquire for work on this Purchase Order shall be the property of WPE. They shall be listed and maintained in suitable condition to do the work, by and at the expense of Seller, and returned to WPE at any time upon request F.O.B Seller's plant. Any material furnished to Seller on a "No-Charge" basis shall remain the property of WPE and be fully accounted for, including scrap. Any such material scrapped because of defective workmanship of Seller shall be replaced or paid for by Seller.

14. **Confidential Information.** If any articles supplied under this Purchase Order are made according to WPE's manufacturing information (designs, specifications, drawings and the like, or by means of any of buyer's tools, dies, patterns or equipment) such manufacturing information shall only be used to manufacture articles to buyer's orders, Seller agrees to keep confidential all such manufacturing information and upon WPE's request return same to WPE without keeping any copies thereof.

15. **FLSA.** Seller assures WPE, and will include a certification on each invoice, that the articles covered by this Purchase Order have been produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act, as amended, and the applicable regulations and orders of the United States Department of Labor issued under Section 14 thereof.

16. **Equal Opportunity and Other Employment Legislation.** WPE is an Equal Opportunity Employer. Seller warrants that it and its subcontractors will comply with all

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applicable governmental laws, rules, orders and regulations covering the production, sale and delivery of the materials or services specified herein, including, without limitation, Executive Order 11375, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Act of 1974, the Fair Labor Standards Act of 1938, as amended, and all rules and regulations promulgated thereunder.

17. **Termination.** WPE may at any time terminate work on this Purchase Order for its own convenience in whole or in part by writing, by telegraph or facsimile, or by oral notice promptly confirmed by written facsimile or telegraphic notice. In that event, any claim arising out of such termination shall be settled exclusively by WPE's reimbursing Seller for costs actually and properly incurred by Seller to the date of termination for the purchase, assembly or manufacture of the goods with due allowance for their salvage value after WPE has had full opportunity to recommend disposition and audit Seller's costs. Without limiting the foregoing, WPE shall not be liable for actual or prospective profits, or for any consequential, incidental, special, indirect or other damages suffered as a result of any claim by Seller arising under any section of this Purchase Order. If WPE terminates upon a default by Seller in any of its obligations hereunder, Seller shall be liable to WPE for all costs, expenses and damages incurred by WPE, on account of termination. The rights and remedies provided to WPE herein shall be cumulative and in addition to any other rights or remedies provided by law or equity.

18. **Packing.** No charges for blocking, boxing, crating, dunnage, packing, drayage, cartage or demurrage will be allowed without the specific written approval of WPE. All shipments must be adequately boxed or crated with any special handling clearly marked, and the contents protected to prevent damage in transit, and in case of export, shipments must be waterproofed and meet all export shipping requirements.

19. **Labeling.** WPE's purchase order number must appear conspicuously on each item and container shipped. If this Purchase Order covers stationery or printing, a label must also be placed on the outside end of each package showing WPE's Purchase Order number, date ordered, quantity, and form number. Local and warehouse shipments of steel and bar stock will be marked or tagged in a manner permitting prompt identification upon receipt.

20. **Documents.** Shipping documents in duplicate and a separate invoice in triplicate for each shipment on this Purchase Order must be mailed to WPE's plant or office issuing this Purchase Order on the same day shipment is made. Material Safety Data Sheets (MSDS) pursuant to 29 CFR 1910.1200, if required, shall accompany all materials delivered.

21. **WPE as Third Party Beneficiary.** Seller acknowledges that WPE is a third party beneficiary of all of Seller's purchase orders or permitted subcontracts issued in connection with this Purchase Order. Seller shall require all of its vendors and subcontractors to include a similar requirement in their purchase orders and subcontracts for WPE's benefit.

22. **Applicable Law.** This order shall be construed according to the laws of the State of Ohio and any suit or civil proceeding arising out of this Purchase Order shall be brought only in a state or federal court in the State of Ohio.

23. **Title.** Unless the face of this Purchase Order expressly provides otherwise, delivery shall be F.O.B. final destination, and title to and risk of loss of goods shall remain with Seller until delivery to unloading facilities at final destination.

24. **Delivery.** Time is of the essence for this Purchase Order and it is essential it be performed and filled on the specified date(s) and that the work progress in a timely fashion

25. **Payment/Invoices.** Invoices must be made out in accordance with the requirements of this Purchase Order and must show the purchase order number, item number and equipment number as well as a description of the equipment and material identifying each article.

Early Payment Discounts. This Purchase Order will not be considered complete until all ordered items have shipped and/or services have been performed and all required documentation is received by WPE, at which time normal or, if applicable, early payment discount schedule will start.

Final Payment. It shall be a condition to final payment that WPE and WPE's Customer have accepted the goods, materials, labor or work furnished hereunder and, if this Purchase Order specifies the delivery of the goods, materials, labor or work to a vendor, contractor or subcontractor of WPE, that such vendor, contractor, or subcontractor shall have accepted the same. It shall be a further condition to final payment that Seller shall have given WPE satisfactory evidence that all liens, claims, obligations and liabilities against the premises for which the goods or materials were furnished or where the work or labor were installed or which are chargeable to WPE or WPE's Customer, have been fully paid, satisfied and released. Final payment so made shall not be construed as a waiver of any breach of the contract arising from this Purchase Order by Seller, or as an acceptance of defective goods, material, labor or work or of goods, material, labor or work not in accordance with specifications and drawings or with the terms of this Purchase Order. WPE's obligation to make payment to Seller hereunder is subject to any unsettled claims WPE may have against Seller in connection with this Purchase Order or otherwise.

26. **Taxes.** Any applicable sales, use or federal excise taxes shall be shown separately on the invoice.

27. **Laws and Regulations.** Seller warrants that the goods and/or services furnished hereunder shall be in full compliance with all applicable federal, state and local statutes, regulations, orders and rules, including without limitation (1) Section 611 of the Clean Air Act Amendments of 1990, 42 U.S.C. §7671j, and any regulations promulgated pursuant thereto, including 40 C.F.R. Part 82, and (2) 10 C.F.R. §21. In accordance with 42 U.S.C.

§7671j, and any regulations promulgated pursuant thereto, Seller shall reliably and accurately place warning statements on, or provide warning statements for, all products or containers supplied to WPE which are required to bear a warning statement. In addition, if goods furnished by Seller are basic components as defined in 10 C.F.R. §21, Seller must comply with the provisions of such regulation.

28. **Indemnity.** Seller agrees to indemnify, save harmless, and defend WPE (including its directors, officers, employees, agents, shareholders, insurers successors, and assigns) and WPE's Customer(s) from and against any and all liabilities, claims, demands, penalties, fines, forfeitures, liabilities, damages (including, without limitation, incidental, consequential and contingent damages), suits and the costs and expenses incident thereto (including, without limitation, costs of defense, settlement and reasonable attorney's fees), known or unknown, contingent or otherwise, which it may hereafter incur, become reasonable for, or pay out as a result of Seller's noncompliance with any applicable federal, state and local statute, regulation, ordinance, order and rule.

29. **Assignment.** This Purchase Order or the monies due thereunder may not be assigned or subcontracted in whole or in part by Seller without the written consent of WPE.

30. **Headings.** The headings herein are for reference only, and are not a part of the terms and conditions.

31. **Rights.** WPE retains generally all rights and remedies granted to it by operation of law in addition to those set forth herein.

32.a. **Dispute Resolution:** For contracts in which the Contract Price/Total Due is \$250,000.00 or less, these Terms and Conditions shall be construed according to the laws of the State of Ohio, and all disputes arising under these Terms and Conditions which are not settled within 30 calendar days after they arise shall be settled by mandatory arbitration in Springfield, Ohio, conducted by a single arbitrator. The award made therein shall be final and binding upon all parties. In the event the parties cannot agree on the selection of the arbitrator, the arbitrator shall be appointed by a Judge of the Court of Common Pleas of Clark County, Ohio, upon application of either party. The parties designate and consent to Clark County, Ohio as the sole and exclusive jurisdiction and venue for any and all proceedings hereunder. The parties waive trial by jury under Ohio Revised Code Section 2711.03 and under any other provision.

32.b. **Dispute Resolution:** For contracts in which the Contract Price/Total Due is \$250,000.01 or greater, these Terms and Conditions shall be construed according to the laws of the State of Ohio and the parties designate and consent to the Court of Common Pleas of Clark County, Ohio, as the sole and exclusive jurisdiction and venue for any and all disputes and proceedings hereunder. Notwithstanding the forgoing, Wepuko Pahnke Engineering shall have the sole and exclusive right to elect to have disputes in which the Contract Price/Total Due is \$250,000.01 or greater settled by mandatory arbitration as set forth in Subparagraph 32.a. above, and the parties shall submit to Wepuko Pahnke Engineering's election. If Wepuko Pahnke Engineering elects to have such disputes resolved by mandatory arbitration, the parties agree that the Court of Common Pleas of Clark County, Ohio shall not have jurisdiction or authority to resolve such disputes, and the parties consent to mutually dismiss any action filed in the Court of Common Pleas of Clark County, Ohio.

33. **Services.** If this Purchase Order is for services, in whole or in part, the following additional terms and conditions shall apply. Seller is an independent contractor and is not the agent or servant of WPE or WPE's Customer. Seller has inspected the premises and site where the services are to be performed, takes the premises as is, and acknowledges that no representations have been made to Seller as to the conditions of such premises or site. Work, when commenced, shall be continuously prosecuted to completion. If Seller shall for any reason be unable to complete the work within the time set forth on the face of this Purchase Order, WPE or WPE's Customer reserves the right to complete the work and to charge the cost thereof against Seller. Seller waives any and all rights Seller may have to any mechanic's liens, bailee's liens, warehouseman's liens, or materialman's liens under the laws of the locality in which the work is performed. If this Purchase Order includes or requires Seller to provide services with respect to any product or other item manufactured by WPE for WPE's Customer, Seller assumes all risk of loss to such product from and after delivery at Seller's place of business (including the risk of unloading) until the time that the services are completed and the product is loaded by Seller for shipment to WPE or WPE's Customer (as directed by WPE)..

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