

## PATENT ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Consulting Agreement
CONVEYING PARTY DATA	
Name	Execution Date
Kinze Manufacturing, Inc.	05/22/2008
RECEIVING PARTY DATA	
Name:	Mr. Kenneth E. Shoup
Street Address:	P. O. Box 138
City:	Kankakee
State/Country:	ILLINOIS
Postal Code:	60901
PROPERTY NUMBERS Total: 1	
Property Type	Number
Application Number:	12800085
CORRESPONDENCE DATA	
Fax Number:	(312)201-2555
Phone:	312-201-2720
Email:	drupert@edwardswildman.com
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>	
Correspondent Name:	Douglas S. Rupert
Address Line 1:	225 W. Wacker Drive
Address Line 2:	Suite 2900
Address Line 4:	Chicago, ILLINOIS 60606
ATTORNEY DOCKET NUMBER:	3K1845.10058
NAME OF SUBMITTER:	DOUGLAS S. RUPERT
Total Attachments: 4 source=ShoupConsultingAgt#page1.tif source=ShoupConsultingAgt#page2.tif source=ShoupConsultingAgt#page3.tif source=ShoupConsultingAgt#page4.tif	

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## CONSULTING AGREEMENT

This Consulting Agreement (the "*Agreement*") is made and entered into on 5-23-08, 2008 to be effective as of the 1st day of March, 2008, by and between **Kinze Manufacturing, Inc.**, 2172 M Avenue, Williamsburg, Iowa 52361, an Iowa corporation (hereinafter referred to as "*Kinze*") and **Kenneth E. Shoup**, an individual residing in ~~Benfield~~ Kankakee, Illinois (hereinafter referred to as "*Consultant*"). (JK)

**WHEREAS**, Consultant has expertise in mechanical engineering and development of products and inventions ("*Services*") and is willing to provide such Services to Kinze for certain engineering projects identified by Kinze ("*Projects*") pursuant to the terms and conditions contained herein.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Term. For a period commencing on March 1, 2008, and continuing until this Agreement is terminated by either party as provided herein (the "*Term*"), Consultant will provide to Kinze the Services for such Projects as requested by Kinze from time to time. Either party may terminate this Agreement for any reason at any time upon no less than thirty (30) days' prior written notice to the other party; provided, however, that Kinze may terminate this Agreement upon one (1) days' notice to the extent that Consultant breaches its obligations under this Agreement.

2. Compensation. Consultant shall be entitled to receive as his sole and exclusive compensation for any Services: (a) an hourly rate of Seventy-Five Dollars (\$75.00) per hour of Service provided to Kinze during the Term; and (b) reimbursement for any materials purchased by Consultant to perform the Services. Consultant shall provide Kinze with an invoice each month detailing the number of hours of Services provided and any materials used, together with invoices for any materials used. Invoices shall be paid within thirty (30) days. Consultant shall not be entitled to any other form of compensation or benefits for such Services, including, without limitation, any income, profits, royalties, license fees or any other form of remuneration that may result from Consultant's Services or from any product, patent, intellectual property, or any other item of value created by Consultant while performing the Services; provided, however, that nothing contained herein shall affect Consultant's right to receive royalty payments expressly provided for in the License Agreement (as defined in Section 8(e) herein).

3. Relationship of Parties.

- (a) Consultant shall complete the terms and conditions of each Project under this Agreement according to Consultant's own means and methods of work which shall be in the exclusive charge and control of Consultant and which shall not be subject to control or supervision of Kinze except as to the results of the work. The services performed by Consultant will be performed in a professional manner.
- (b) Consultant shall have no authority or power of decision over any of Kinze's activities or employees.

- (c) Consultant is retained by Kinze only for the purposes and to the extent set forth in this Agreement, and Consultant's relationship to Kinze shall be that of an independent contractor. Consultant shall be free to utilize such portion of Consultant's time, energy and skill during regular business hours as Consultant determines for the benefit of Kinze or for Consultant's own business or for others. Consultant shall not be considered under the provisions of this Agreement or otherwise as being an employee, agent, or representative of Kinze, or as being entitled to participate in any employee benefit or retirement plans or arrangements of Kinze.
- (d) Consultant understands that, as this Agreement does not constitute an employment agreement, Consultant is responsible for any and all income taxes levied by the state or federal government, including the timely filing and payment of any estimated income and self-employment taxes, or employer taxes with respect to Consultant's employees, if applicable, resulting from payments to Consultant hereunder. Consultant understands and agrees that Kinze will not be withholding any income or employment taxes on any amounts paid to Consultant under this Agreement with respect to Consultant. Consultant further understands that as an independent contractor, Consultant is not covered by Kinze's unemployment or workers' compensation insurance.
- (e) The parties understand and agree that Consultant is engaged in the operation of Consultant's own business, and nothing herein shall be considered to create a joint venture or partnership relationship between the parties.

4. Confidentiality and Non-Compete. The parties have previously entered into a Non-Disclosure, Confidentiality and Non-Compete Agreement dated as of December 4, 2006 ("*Non-Disclosure Agreement*"). The terms and conditions of the Non-Disclosure Agreement are hereby incorporated herein by this reference and will continue in full force and effect and will apply to the Services performed by Consultant. Consultant acknowledges and agrees that any Inventions or Confidential Information (each as defined in the Non-Disclosure Agreement) that are contained in or result from the Services provided by Consultant to Kinze, whether such Services are provided before or after the date of this Agreement, shall be the sole and exclusive property of Kinze and shall be governed by the Non-Disclosure Agreement.

5. Attorneys' Fees. In the event that either party hereto shall bring an action against the other party on account of a breach of this Agreement, then the prevailing party shall be entitled to reimbursement from the other party for all expenses incurred, including reasonable attorneys' fees.

6. Indemnification. Consultant, to the maximum extent permitted by law, covenants and agrees to defend, indemnify and hold harmless Kinze, including Kinze's owners, officers, employees, agents, advisors, representatives, successors and assigns (each an "*Indemnitee*"), from and against, for or reimburse such Indemnitees for, any and all Losses, whether or not resulting from third-party claims, actually incurred by Indemnitees as a result of or in connection with Consultant's acts or omissions in connection with the performance of this Agreement except to the extent such Losses result directly from the willful misconduct or gross negligence of an Indemnitee. "*Losses*" shall mean all liabilities, losses, costs, damages, penalties, obligations, fines, royalties, deficiencies, taxes or expenses (including reasonable attorneys' fees and expenses and costs of investigation in any action), including any action for the enforcement of any rights

contained herein.

7. Assignment. Neither party may assign or otherwise transfer this Agreement without the prior written consent of the other party; provided, however, that Kinze shall be allowed to assign this Agreement to an entity controlled by Kinze or to any successor of Kinze without the consent of Consultant.

8. Miscellaneous.

(a) Waiver, Modification, or Cancellation. Any waiver, alteration or modification of any of the provisions of this Agreement or cancellation or replacement of this Agreement shall not be valid unless in writing signed by the parties hereto.

(b) Construction; Jurisdiction. The laws of the State of Iowa shall govern this Agreement. Each party hereto hereby submits to the nonexclusive jurisdiction of the United States District Court for the Northern District of Iowa or the Iowa District Court for Linn County for purposes of all legal proceedings arising out of or relation to this Agreement.

(c) Paragraph Headings. The paragraph headings contained herein are for the convenience of reference only and shall not be construed so as to affect the interpretation or construction of any substantive provision of the Agreement.

(d) Severability. If any part of this Agreement or any part of any provision hereof, is adjudicated to be invalid or void, then the remaining provisions shall be executed insofar as the remaining provisions are capable of execution.

(e) Entire Agreement; Coordination with Prior Patent License Agreement. This Agreement and the Non-Disclosure Agreement constitute the entire agreement of the parties with respect to the subject matter hereof and thereof. The parties acknowledge the existence of the Exclusive Patent License Agreement dated June 1, 2003, by and between Kinze and Consultant relating to a patent and certain obligations and rights of the parties therein (the "*License Agreement*"). Specifically, Section 11(c) of the License Agreement requires Consultant to "make himself available upon reasonable notice and for reasonable times at no cost to Kinze to consult with Kinze on the design, manufacture, use and testing of the Licensed Product". Kinze and Consultant each agree that this Agreement does not in any way amend or modify the License Agreement, and that any services provided by Consultant under the License Agreement are not Services under this Agreement and are not subject to any compensation under this Agreement.

(f) Notices. All written notices shall be given by certified mail to Kinze and Consultant as follows:

To Kinze:	President Kinze Manufacturing, Inc. 2172 M Avenue Williamsburg, Iowa 52361
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To Consultant:	Kenneth E. Shoup
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P.O. Box 138  
Bonfield, Illinois 60913

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and  
year first above written.

KINZE MANUFACTURING, INC.

By: Jon E. Kamenbauer  
Its: president

CONSULTANT:

By: Kenneth E. Shoup  
KENNETH E. SHOUP