

ATTACHMENT C - TERMS AND CONDITIONS FOR SOURCED PRODUCT AND SERVICE

Seller will source MRO products and services not available through the Seller's *General Catalog* or website (e.g., product line extensions within established product categories with current suppliers, items infrequently ordered that are not listed in General Catalog or website, items pending addition to General Catalog or website, and discontinued products previously listed on General Catalog or website) ("Sourced Products" or "Sourced Services"). Seller, at its sole discretion, will determine if it can satisfy/support Contractor's Sourced Product and/or Service request. Seller will provide Contractor a quotation which shall include the price, freight, and the warranty terms provided by the vendor of the Sourced Product or Sourced Service.

1. SOURCED PRODUCTS

- a. Unless otherwise agreed to in writing between Seller and Contractor, Sourced Products are shipped with all costs imposed by the carrier related to the shipment paid by Seller and charged to Contractor on Contractor's invoice. If Contractor chooses to ship freight collect, shipments will be made to Contractor freight collect, using carrier designated by Contractor. C.O.D. shipments are not permitted. Receipts for freight charges will not be furnished. Title and risk of loss pass to Contractor upon delivery of the shipment to Contractor's destined location.
- b. THE PRODUCT WARRANTY PROVIDED BY THE MANUFACTURER AND/OR SUPPLIER OF THE SOURCED PRODUCT WILL BE CONTRACTOR'S SOLE REMEDY. SELLER'S STANDARD LIMITED WARRANTY TERMS INCLUDED IN THIS AGREEMENT OR SELLER'S WEBSITE TERMS AND CONDITIONS, TO THE EXTENT APPLICABLE, DO NOT APPLY TO SOURCED PRODUCTS.
- c. **WARRANTY DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, NO WARRANTY OR AFFIRMATION OF FACT OR DESCRIPTION, EXPRESS OR IMPLIED, IS MADE OR AUTHORIZED BY SELLER. SELLER DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. SELLER ALSO DISCLAIMS ANY LIABILITY FOR CLAIMS ARISING OUT OF PRODUCT MISUSE, IMPROPER PRODUCT SELECTION, IMPROPER INSTALLATION, PRODUCT MODIFICATION, MISREPAIR OR MISAPPLICATION.
- d. An **RGA (Returned Goods Authorization)** must be issued by Seller prior to returning Sourced Products; the RGA is good for thirty (30) days after issuance. Returns will be sent directly to the sourced supplier, and not to a Seller location, unless otherwise instructed in the RGA. Returned Sourced Products may incur a restocking fee based upon the Sourced Product sell price, plus freight paid by Seller and added to the invoice, unless the shipment of Sourced Products were the result of Seller or manufacturer error, or the Sourced Products are defective. Special manufactured and custom engineered products are sold on a "FINAL SALE" basis only and no changes, cancellation, returns, or refunds are allowed, except if Sourced Products are defective.
- e. In the event that Seller agrees to stock an agreed upon quantity of Sourced Products for Contractor, upon expiration or termination of the Agreement, Contractor agrees to purchase all remaining stocked Sourced Product. Seller will invoice Contractor within (30) days of expiration, cancellation, or termination of the Agreement.

2. SOURCED SERVICES

- a. Performance of Sourced Services will be governed by the following additional terms and conditions (“additional service terms”). Sourced Services may be performed by: (i) Seller, its subsidiaries, affiliates, or subcontractors (“Seller”); or third-party service providers engaged by Service Seller (“third-party providers”). For purposes of this section, “service provider” refers to either Seller or a third-party provider depending upon which of them is performing services, and “service provider personnel” refers to personnel of such service provider.
- b. The terms and conditions contained in this section are extended solely by the specific service provider performing services, and any obligations contained in this section do not apply to any other service provider referenced in the foregoing paragraph. A third-party provider may require Contractor via Seller to execute additional contractual documents prior to the performance of Sourced Services, which documents may modify the terms between Contractor and Seller as set forth in this section.
- c. Limited services warranty. All services will (i) be performed in a workmanlike manner; (ii) conform to the specifications (if any) provided by the service provider in a statement of work; and (iii) be warranted for a period of ninety (90) days after performance of services (“limited warranty period”). If services are improperly performed and Contractor notifies Seller of the improperly performed service during the limited warranty period, then Seller will coordinate with the service provider to re-perform those services, in whole or in part, as necessary to cure the particular breach, or upon Contractor’s concurrence, refund the amount paid by Contractor for the services directly attributable to the particular breach.
- d. Warranty disclaimer and waiver for services. To the maximum extent permitted by applicable law, the express warranties set forth in this section for services are in lieu of all other warranties, express or implied, and the service provider disclaims, and Contractor waives, all other warranties for services, including, but not limited to, any implied warranties of non-infringement, fitness for a particular purpose and merchantability. The warranties set forth in this section are expressly conditioned upon the use of the services for their intended purpose and shall not apply to services which have been subject to modification by Contractor or any third party.
- e. **LIMITATION OF LIABILITY. SELLER AND THIRD-PARTY PROVIDERS EXPRESSLY DISCLAIM ANY LIABILITY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES IN THE PERFORMANCE OF SERVICES. THE LIABILITY OF SELLER AND ANY THIRD-PARTY PROVIDER PERFORMING SERVICES IN ALL CIRCUMSTANCES IS LIMITED TO, AND SHALL NOT EXCEED, THE PURCHASE PRICE FOR THE PERFORMANCE OF THE PORTION OF SERVICES THAT GIVES RISE TO ANY PARTICULAR LIABILITY. THE FOREGOING LIMITATION SHALL NOT REDUCE SELLER AND THIRD-PARTY PROVIDER’S LIABILITY FOR PERSONAL INJURY AND DEATH, TANGIBLE PROPERTY DAMAGE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT TO THE EXTENT CAUSED BY SELLER AND THIRD-PARTY PROVIDER, EITHER DIRECTLY OR INDIRECTLY, ARISING OUT OF OR CONNECTED WITH THE PERFORMANCE OR BREACH OF THIS AGREEMENT.**