

**TERMS AND CONDITIONS – Updated and Revised 4/19/2018**

1. **Acceptance.** (a) This order is **VOSS INDUSTRIES, LLC.'S** (hereinafter "Buyer") offer to Seller and does not constitute an acceptance by Buyer of any offer to sell, quotation or proposal. Any reference to such offer to sell, quotation or proposal is solely for the purpose of incorporating the description and specifications of the goods and services contained therein to the extent that such description and specifications do not conflict with the description and specifications on the face of this order. This order consists only of the terms contained herein and on the face of this order and any supplements, specifications or other documents expressly incorporated herein by reference.

(b) By acknowledging receipt of this order (or by shipping the goods or performing the services called for by this order) Seller agrees to the terms and conditions of sale contained in this order. Any additional or different terms or conditions contained in any acknowledgment of this order by Seller shall be deemed objected to by Buyer without need of further notice of objection and shall be of no effect nor in any circumstance binding upon Buyer unless accepted by Buyer in writing. Acceptance or rejection by Buyer of any such additional terms or conditions shall not constitute an acceptance of any other additional term or condition.

2. **Non-Assignment.** Assignment by Seller of this order or any part thereof without the written consent of Buyer shall be void.

3. **Payment.** Payment Terms are 2% 10, Net 60. The period within which discount may be taken or Payment Term duration shall start from the date of receipt of the invoice or of receipt of the goods, whichever is later, by Buyer and Buyer shall be entitled at all times to set-off any amount owing from Seller to Buyer against any amount due or owing to Seller with respect to this or other orders placed on Seller by Buyer.

4. **Shipment.** (a) Seller grants Buyer the right to at any time specify the carrier and/or method of transportation to be employed in conveying any part or all of the goods covered herein.

(b) Promptness of deliveries is of the essence. If Seller delays in deliveries, Seller will ship express or air freight prepaid at Buyer's request, without additional expense to Buyer. If deliveries are delayed, Buyer may substitute other materials in place of those ordered from Seller. Where such substitutions results in higher costs, or use of materials not according to Buyer's specifications, then Seller agrees to pay whatever additional costs, expenses, losses or damages, Buyer sustains and, in addition, Seller agrees to pay all damages caused by consequence of such delay, or substitution. Seller agrees to accept return of all materials for which substitution has been made, at Seller's expense, if Buyer so elects.

(c) Goods shipped to Buyer in advance of Buyers delivery Schedule or in excess of amounts ordered may be returned to Seller at Seller's risk and expense.

5. **Government Regulations**

(a) **FAIR LABOR STANDARD ACT.** Each of Seller's invoices covered by this purchase order must carry the following certificate or its equivalent in order to be passed for payment: "Seller hereby certifies that any materials covered by this invoice were produced in compliance with all applicable requirements of the Fair Labor Standards Act, as amended, and of regulations and orders issued hereunder."

(b) **OCCUPATIONAL SAFETY AND HEALTH ACT.** Seller warrants that the goods to be furnished hereunder comply with the requirements of the Occupational Safety and Health Act of 1970, as amended.

(c) **COMPLIANCE.** The Seller, by accepting this order, agrees that goods furnished on this order were manufactured in accordance with all acts, orders, and regulations of the Federal, State and Municipal Governments and Applicable Codes.

6. **Indemnity and Insurance.** Seller shall defend and indemnify Buyer against all damages, liabilities, claims, losses and expenses (including attorneys' fees) arising out of, or resulting in any way from any defect in the goods or services purchased hereunder or from any act or omission of Seller, its agents, employees or subcontractors. Seller shall maintain such public liability insurance (including products liability, completed operations, contractors' liability and protective liability), automobile liability insurance (including non-owned automobile liability) and workmen's compensation and employers' liability insurance as will adequately protect Buyer against such damages, liabilities, claims, losses and expenses (including attorneys' fees). Seller agrees to submit certificates of insurance evidencing its insurance coverage when requested by Buyer.

7. **Termination.** Buyer may at any time terminate this order in whole or in part for its convenience upon written notice to Seller in which event Seller shall be entitled to reasonable termination charges consisting of a percentage of the work performed prior to termination plus actual direct costs resulting from termination.

**Waiver.** (a) Waiver of any breach shall not constitute waiver of any other breach of the same or any other provision. Acceptance of any item or payment therefore shall not waive any breach. Buyer's remedies shall be cumulative and any remedies herein specified do not exclude any remedies allowed by law.

(b) All warranties, express or implied, in fact or in law and all remedies therefore shall continue to operate in favor of Buyer, unless expressly waived in writing and a waiver in one instance or in part shall not extend to other instances or parts.

**Substitutions and Modifications.**

(a) No changes or modifications in or to specifications, drawings, equipment, materials to be used or furnished or the contract provisions shall be effective against Buyer, except upon approval thereof in writing by Buyer's executive officer or other duly authorized party at Buyer's office, and until such changes or modifications are approved as herein provided by the terms hereof.

(b) This order is subject to modification by Buyer in the event of and Buyer shall in no way be liable for any delay or damages arising out of fire, accidents, strikes, governmental acts, flood, riot or other conditions beyond Buyer's control, and Buyer shall have the right to suspend deliveries or payments therefore during the period of such conditions or delay, without liability whatsoever for any damages or additional costs arising therefrom.

10. **Patents.** Seller agrees, at its own expense, to defend any suit or action against Buyer or against those selling or using the goods or services covered by this order for alleged infringement of patent or invention rights arising from the sale or use of such goods or services and to indemnify and save Buyer harmless from any damages, liabilities, claims, losses and expenses (including attorneys' fees) paid or incurred by Buyer in connection with any such suit or action, whether against Buyer or against those selling or using the goods or services covered by this order; provided, however, that this indemnity shall not apply to any such damages, liabilities, claims, losses or expenses arising out of compliance by Seller with specifications furnished by Buyer.

11. **Warranty.** Seller expressly warrants that all goods and services covered by this order shall conform to the specifications, drawings, samples, or other description upon which this order is based, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect and that goods and services of Seller's design will be free from defect in design. Inspection, test, acceptance or use of the goods furnished hereunder shall not affect Seller's obligation under this warranty, and such warranty shall survive inspection, test, acceptance and use. This warranty shall run to Buyer, its successors, assigns and customers and the users of its products. Seller agrees to replace or correct defects in any goods or services not conforming to the foregoing warranty promptly, without expense to Buyer, when notified of such non-conformity by Buyer, In the event of failure by Seller to correct defects in or replace non-conforming goods or services promptly Buyer, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the costs incurred by Buyer thereby. Non-conforming materials received from Seller will be subject to a Buyer imposed minimum return fee of \$500.00.

#### **EEO CLAUSE from EXECUTIVE ORDER 11246**

As applicable, the provisions of the Equal Opportunity Clauses pursuant to Section 202 of Executive Order 11246, as amended and 41 CFR Section 60-1.40; as well as 29 C.F.R. Part 471, Appendix A to Subpart A, are herein incorporated by reference. Further, sellers who (1) are not otherwise exempt as provided by 41 CFR 60-1.5, (2) have 50 or more employees and, (3) have a contract, subcontract or purchase order amounting to \$50,000 that is necessary to the completion of a covered federal contract or subcontract are hereby notified of their obligations to file EEO Standard Form 100 and to prepare an affirmative action plan(s) as required under the regulations set forth above.

**This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.**

#### **ENGINEERING DOCUMENTS INFORMATION**

Seller shall ensure the engineering documents (e.g. drawing, specifications, and statement of work) of the configuration specified for this contract item is available and applied as the authority for the manufacture and inspection of the ordered goods.

Seller shall ensure goods conform to latest specified engineering documents and associated revision. Latest revisions can be found at:

**AMS Specs-** <https://www.sae.org/standards/> **ASTM Specs-** <https://www.astm.org/>

**Government Specs (Mil, PRF, etc.) -** <http://quicksearch.dla.mil/qsSearch.aspx>

**Voss Specs (VS)-** <http://www.vossind.com>

Seller will contact Buyer's Authorized Procurement Representative for resolution of differences between configuration of goods and the contract specified engineering documents and associated revision.

Seller shall ensure resolution of configuration differences in advance of Seller's request for Buyer verification (when required) and in any case prior to shipment.

Seller shall record on shipping document, the configuration information of the goods. The configuration information shall include the revision for the applicable; engineering documents.

Drawing Revision:

Engineering / manufacturing document Revision:

Specification & Revision:

Statement of Work & Revision:

#### **RIGHT OF ENTRY INSPECTION**

All work under this purchase order is subject to source and surveillance inspection by Voss, Agencies of the U.S. Government and Voss Industries' customers. Seller, without additional cost, shall provide all reasonable facilities and assistance for safety and convenience of such inspectors. At the time of inspections, seller shall make available to the inspectors copies of all drawings, specifications and process, preservation and packaging data applicable to the goods ordered herein.