



TERM AND CONDITIONS OF PROPOSAL AND SALE – Updated & Revised 10/05/2018

Voss Industries, LLC (hereinafter “Voss”) offer is in strict accordance with this Proposal and Voss’ Proposal Specifications including these Terms and Conditions of Proposal and Sale which shall constitute the complete and final agreement between Voss and the Purchaser. These Terms and Conditions supersede Purchaser’s Specifications and Purchaser’s terms and conditions. NO GUARANTEE AND/OR WARRANTY NOT EXPRESSLY STATED IN THIS PROPOSAL SHALL BE IMPLIED OR APPLY.

Proprietary Information

Any Voss Proposal, including any drawings submitted pertaining thereto, is the property of Voss; it contains confidential information and is loaned to the Purchaser on condition that the Purchaser and its’ representatives have, by receiving it, agreed to maintain its confidentiality. In the event this Proposal becomes a Contract, the Purchaser may retain the Proposal for use in connection with the products covered by this Contract and for that purpose make such copies thereof as may be necessary.

Limitation of Proposal and Prior Sale

Any Voss Proposal is valid for thirty (30) days from the date hereof, except that Voss shall have the right to withdraw this Proposal at any time before formal acceptance by the Purchaser and subsequently accepted in writing by an authorized representative of Voss. Voss’ Proposal for the products is based on the availability of engineering, manufacturing, service, and support manpower, fabrication and operating material availability, shop space and manufacturing facilities to perform the services and fabrication described herein. In the event that another sale which utilizes this manpower, material or facilities is made prior to a mutually acceptable award of Contract and full release to proceed, Voss reserves the right to withdraw or to amend the respective Proposal accordingly.

Drawings

The Purchaser shall furnish Voss with all information, instrumentation, and drawings requisite to the execution of the work. Voss shall furnish the Purchaser only those general arrangement drawings as are necessary for the work contemplated hereunder.



Part Revision on Purchase Order

Purchase order(s) submitted to Voss must reflect the desired part revision number. Purchase orders that do not reflect part revision numbers will result in Voss manufacturing the latest revision on file. Purchase order(s) submitted to Voss without revision numbers are subject to the Voss No Return Policy.

Customer(s) requesting re-work of parts to meet a specific revision number that was not listed on the original purchase order(s):

- a) Must pay for the original parts in full prior to the RGA being issued
- b) Are required to compensate Voss for all re-work costs plus a 33% margin on actual costs
- c) Are required to supply a supplemental purchase order with a not-to exceed amount to cover b) as estimated by Voss before any rework efforts will commence

Shipping Points Transportation Charges

Voss shall cause the products to be shipped from Voss Locations, except for purchased items not manufactured by Voss, which may be shipped direct from its suppliers' plants. Transportation charges to destination shall be paid by the Purchaser. In any event, upon arrival of products on board carrier at destination, the Purchaser shall be responsible for any demurrage, towboat, or ship standby service, and any trans-shipment. Further, Purchaser shall assume any additional cost resulting from changes in currently existing facilities and clearances. Routing and type of transportation shall be controlled by Voss.

Risk of Loss or Damage

Risk of loss of or damage to the products called for and furnished under the terms of this Contract shall pass to the Purchaser upon delivery of the products or any portion thereof by Voss to a common carrier at the F.O.B. point of origin. From the date that risk of loss of and damage to the products passes to the Purchaser as provided above, and until the products is finally accepted and the Contract Price paid in full, or until all obligations of Voss hereunder have terminated, the Purchaser shall, by insurance or otherwise, assume the complete risk of loss of or damage to the products no matter how caused, and shall hold harmless Voss from any such liability.

Patent Indemnity

Voss shall defend at its own expense any suit or action brought against the Purchaser based on a claim that any product designed by Voss and furnished hereunder, constitutes direct infringement of any patent of the United States granted prior to the date of submission of this Proposal, and Voss shall also pay all costs and damages awarded therein against the Purchaser. In case such Voss-designed products is in such suit held to constitute infringement and its use is enjoined, Voss shall at its own expense either procure for the Purchaser the right to continue using said products or replace same with non-infringing products; or modify it so it becomes non-infringing; or remove said products and refund the purchase price. Where the Purchaser has given written instructions to Voss which direct (1) a specified manner of performance of the contract or (2) a specific design or arrangement of the products or a part or parts thereof to be furnished hereunder, the Purchaser shall defend at its own expense any suit or action based on a claim that the products or a part thereof furnished hereunder constitutes infringement of a United States patent, where such infringement results from such written instructions, and the Purchaser shall also pay all costs and damages awarded therein against Voss. The foregoing sets forth the entire liability of Voss with respect to patent infringement. Neither the Purchaser nor Voss shall have the right to claim indemnity under this paragraph unless prompt notice of the assertion of any claim for which indemnity is sought is given in writing and unless the party seeking indemnity makes available to the other party all other needed information, assistance, and authority it possesses for the defense of any suit or proceeding in which such claim is asserted.

Warranty and Limitation of Liability of Voss

Voss represents that it will supply the products described herein in accordance with its standard technical procedures and practices. However, as a condition of this offer, Voss and Purchaser realize that the performance of the products to be supplied hereunder and its influence on other associated products cannot be exactly predicted. THEREFORE, ANY PERFORMANCE INFORMATION CONTAINED HEREIN IS SUBMITTED AND SET FORTH FOR THE PURCHASER'S CONVENIENCE ONLY AND IS NOT OFFERED BY VOSS, NOR SHALL THE PURCHASER CONSTRUE IT, AS EITHER AN EXPRESS WARRANTY OR AN IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. INASMUCH AS OPERATION OF THE PRODUCTS SUPPLIED HEREUNDER IS TO BE WITHIN THE CONTROL OF PURCHASER OR ITS CUSTOMER OR END USER, AND VOSS HAS EXCLUSIVELY SET OUT IN ITS TECHNICAL DOCUMENTS ITS GUARANTEES, IF ANY, NO OTHER GUARANTEE, WARRANTY, OR REPRESENTATION IS MADE OR TO BE IMPLIED. Voss shall replace F.O.B. point of shipment any of its products which within six (6) months from the date of first use or twelve (12) months after shipment of Voss' product, whichever occurs first, that are found to be defective in design, workmanship and material (if material, in case of delay use, is



protected from damaging agents), excluding, however, normal wear, tear, and deterioration, or the effect of abrasion or corrosion, provided said products are used by the Purchaser in accordance with generally approved practice or in accordance with the Operating Instructions and other conditions of service (if any) specified by Voss and the Purchaser notifies Voss in writing as soon as any such defect becomes apparent. If Voss cannot replace the defective product within a reasonable time after notice of such defect is given by the Purchaser, or if an emergency exists rendering it impossible or impracticable for the Purchaser to call upon Voss to replace a defective product, the Purchaser, after notice to Voss, unless Voss shall object, may make or cause to be made such replacement, in which case Voss will reimburse the Purchaser for the replacement part. In no event shall Voss be liable for removing such defective part or for reinstalling such part when replaced or for any costs incurred with such removal or reinstallation. Voss warrants that title to the products is free of defects. VOSS AND PURCHASER AGREE THAT, IN CONSIDERATION OF THE ABOVE EXPRESS WARRANTY AND THE PERFORMANCE WARRANTIES, ALL OTHER WARRANTIES OTHER THAN TITLE EITHER EXPRESSED OR IMPLIED, WHETHER ARISING UNDER LAW OR EQUITY INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED FROM THIS CONTRACT. The sole liability of Voss and the exclusive remedy of the Purchaser arising out of the manufacture, sale or furnishing of the products hereunder or its use, on warranties or otherwise, shall be limited to the cost of replacement of defective products as herein specified. Further, Voss' maximum liability hereunder, arising from any cause whatsoever, including but not limited to breach of contract or tort (including negligence), shall not exceed the contract price of the products furnished hereunder.

Payment Terms

Payment Terms are limited to Net 30 Days From Date Of Invoice if approved by the Voss Credit Department prior to order submission. Orders submitted prior to the Voss Credit Department approval are subject to various forms of Cash In Advance payment requirements to be determined based upon Purchaser's Credit history.

Consequential Damages

Notwithstanding any other provision of the Contract, in no event shall Voss be liable, whether arising under contract, tort (including negligence) or otherwise, for liquidated damages, loss of anticipated profits due to non-operation or increased expense of operation, service interruption, claims of customers, cost of money, loss of use of capital or revenue, or for any special, incidental or consequential loss or damage of any nature arising at any time or from any cause whatsoever.



Hold Harmless

The Purchaser, his assigns and successors in interest, shall indemnify and hold harmless Voss from any and all liability claims, suits, expenses, damages or loss in connections with bodily injuries to any person or persons including death at any time resulting therefrom and in connection with any damage to or less of property (including loss of or increased expense of operation of products or loss of profits) including the products furnished hereunder, or other property whether or not owned by the Purchaser, resulting from the operation or use of the products furnished hereunder. The Purchaser shall at Purchaser's expense defend any and all legal actions and suits brought against Voss alleging any such injury, death, damage or loss, even if such suit or suits are groundless, false or fraudulent.

Backcharges

Voss shall not be called upon to make any allowance for material, labor, repairs, or alternations made for its account unless authorized by it in writing.

Notification of Claims

The Purchaser shall notify Voss immediately by Registered Mail addressed to Voss at Voss Industries, LLC, 2168 West 25th Street, Cleveland, Ohio 44113-4172, of all claims brought against the Purchaser for which Voss may be liable; and Voss shall notify the Purchaser immediately by Registered Mail of all claims brought against Voss for which the Purchaser may be liable.

Governing Law

This Contract shall be construed in accordance with the laws of the State of Ohio.

Force Majeure

Except with respect to the payment of monies due hereunder and BUYER'S obligations under Section 2 hereof, neither party hereto shall be responsible for failure to perform hereunder or for any loss or damage due to causes beyond its reasonable control, including but not limited to acts of God, fires, civil disobedience, war, riots, strikes, work stoppages, floods, water and the elements, changes in governmental requirements or inability to secure equipment, raw materials, or transport. Notice to this effect ("Notice of Force Majeure") shall be given at once to the other party. Performance shall be resumed as soon as practicable after the cessation of the cause of delay, provided, however, that if such period of delay shall exceed sixty (60) days from the receipt of Notice of Force Majeure, either party may terminate this Proposal upon written notification to the other.

Integration

There are no understandings between the parties hereto as to the subject matter of this Contract other than as herein set forth and in the accompanying documents specifically referred to herein. All previous communications concerning the subject matter of this Contract between the parties hereto, either verbal or written, are hereby abrogated and withdrawn, and this Contract constitutes the whole of the agreement between the parties hereto. Any provisions of a purchaser order or specification which may be issued hereafter and which are additional to or in conflict with the provisions hereof shall not be binding on the parties unless duly approved in writing by both parties of this Contract.

Execution of Contract

This Proposal shall become a contract between the Purchaser and Voss when accepted by the Purchaser and when subsequently accepted only by a representative of Voss so authorized by its Board of Directors. It shall then be binding upon the parties hereto and upon their respective successors and assigns.

ITAR

Purchaser understands that Voss information and Voss products are subject to the US Export Administration Act, the Trading with the Enemy Act, and any and all other laws and regulations of the USA (collectively the "Regulations") which Regulations are enforced by the US Department of Commerce, the US Department of the Treasury, the US Department of State and other departments and agencies of the US. The Regulations, in part, presently prohibit export and diversion of support, directly or indirectly, of Voss information and Voss products to certain parties and/or countries without the express prior written approval of the US Government. Purchaser agrees to abide by all the Regulations. Purchaser will not sell, transfer or supply any Voss information and/or products to parties and/or countries not approved under applicable Regulations. Purchaser shall defend, hold harmless and indemnify Voss for any damages resulting to Voss from a breach of this paragraph by the Purchaser. Without limiting the foregoing, Purchaser hereby represents that in its performance of this Agreement, Purchaser will not violate any applicable laws, including without limitation, any laws or regulations of the USA, or the country or countries where performance shall take place, including (a) any export controls laws or regulations; (b) any currency laws or regulations; (c) the US Foreign Corrupt Practices Act; (d) any tax laws or regulations; (e) any customs laws and regulations and (f) any other laws or regulations of the USA or any other country or countries where performance shall take place. Buyer hereby agrees to do all acts, make all applications or do any other review, function or thing necessary to assure that this Agreement and the performance thereof by the Purchaser complies with all laws and regulations of the USA and the country or countries



in which the Purchaser will perform hereunder. Purchaser further agrees to defend and indemnify Voss from and against any loss, claim, penalty or liability that may arise from any violation of any such applicable laws or regulations by the Purchaser.

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