

## GENERAL TERMS AND CONDITIONS FOR THE SALE OF GOODS

1. Parties. R&C Valve Repair, Inc., a California Corporation, is the “**Seller**” for all transactions referenced herein. Any person or entity buying or requesting to buy Goods from Seller is herein referred to as the “**Buyer.**” All goods, equipment and spare parts delivered or to be delivered by Seller to Buyer are herein referred to as the “**Goods.**”

2. Acceptance of Terms. These terms and conditions of sale (these “**Terms**”) are the only terms governing Seller’s sale of Goods and delivery of Goods to Buyer. No purchase is effective unless Seller has confirmed such purchase in writing and issued a corresponding confirmation of sale (the “**Order Confirmation**”). The Order Confirmation and these Terms (collectively, this “**Agreement**”) comprise the entire agreement between Buyer and Seller, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Mere issuance of Buyer’s form containing different or additional provisions shall not constitute a specific objection to these Terms. Seller’s acceptance of Buyer’s order shall not constitute an acceptance of printed provisions on any form Buyer has supplied which are different from or additional to any term hereof, unless specifically accepted in writing by an authorized officer of Seller, and such different or additional provisions are hereby expressly rejected. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms. Notwithstanding anything herein to the contrary, if a written contract signed by both Seller and Purchaser is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

3. Cancellations. Cancellation of any order accepted by Seller’s Order Confirmation requires Seller’s prior written consent, which Seller may withhold for any reason or no reason. Seller reserves the right to charge Buyer for any expenses incurred by Seller as a result of any cancellations initiated by Buyer a cancellation charge as follows: Orders cancelled within 0-7 days after issuance of Order Confirmation 25%; orders cancelled within 8-30 days of Order Confirmation 50%; orders cancelled 31 days and later 95%. Orders for Goods that are non-standard or manufactured at Buyer’s request or specifications may not be canceled.

4. Prices. All prices listed publicly or in general price lists or catalogs are subject to modification by Seller and are not binding unless Seller so states to Buyer in writing. Price does not include freight charges and installation services unless otherwise stated in the quotation or Order Confirmation. All specific price quotes by Seller, whether written or oral, expire 30 days from the date of issuance, including the issuance day. Seller may withdraw any price quote by written notice at any time during this period. Only the

price contained in the Order Confirmation shall be the final and determinative price for a sale. Prices do not include freight charges. All prices are exclusive of all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller’s income, revenues, gross receipts, personnel or real or personal property or other assets.

5. Payment Terms. (a) Unless otherwise agreed in a writing signed by an authorized officer of Seller, Buyer shall pay all invoiced amounts due to Seller without offset or reduction, within 30 days from the date of Seller’s invoice, by check or by wire transfer in immediately available funds (all banking and related charges being payable by Buyer) to an account indicated by Seller. (b) Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, whichever is lower, calculated daily and compounded monthly. (c) Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys’ fees. (e) If Seller so requests, Buyer shall give Seller evidence, as Seller deems satisfactory, of Buyer’s solvency and financial wherewithal before Seller makes any complete or partial shipment of Goods. If in Seller’s determination Buyer’s financial condition does not justify the terms of payment specified, Seller reserves the right to request payment in full before shipment. (f) In the event of Buyer’s bankruptcy, insolvency or failure to make one or more timely payments to Seller, Seller may suspend or terminate any pending orders and/or refuse to accept any future orders and/or declare all Seller’s other pending invoices to Buyer immediately due and payable and/or may require advance payment for future orders and/or may require security for any future payment. (g) Seller’s receipt and acceptance of any partial payment shall not constitute a waiver of any of Seller’s rights set forth herein or provided by law. (h) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller’s breach, bankruptcy or otherwise.

6. Delivery. (a) Seller will deliver the Goods within a reasonable time after the transmittal of the Order Confirmation. Any delivery dates Seller may furnish to Buyer are estimates only and do not bind Seller to deliver or ship the Goods on the dates indicated unless specifically so stated by Seller to be binding. (b) Unless otherwise agreed in writing by the parties, Seller shall deliver the Goods, after transfer of title, by tendering them EX WORKS (as defined by INCO terms) from the shipping location as specified in Seller’s Order Confirmation to a delivery point as requested by Buyer (the “**Delivery Point**”) using Seller’s standard methods for packaging and shipping such Goods. Buyer shall take delivery of the Goods within 2 days of Seller’s written notice that the Goods have been tendered Delivery Point. Buyer shall be responsible for all unloading costs and, if applicable, provide equipment and labor

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reasonably suited for receipt of the Goods at the Delivery Point. (c) If Buyer fails to accept Goods upon tender for delivery by Seller, Seller may make storage arrangements for Goods and shall have the right to charge Buyer for Good as well as for all storage costs plus a handling and administration fee of up to one thousand U.S. Dollars (\$1,000). (d) Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and Buyer shall pay for the Goods shipped whether such shipment is in whole or partial fulfillment of Buyer's purchase order.

**7. Title and Risk of Loss.** Title and risk of loss passes to Buyer upon tender for delivery of the Goods EX WORKS at the shipping location as specified in the Order Confirmation. Seller shall not be liable for any delays, loss or damage in transit, and Buyer shall make any claims for the foregoing to the carrier. Unless agreed to in an Order Confirmation, Seller has no obligation to insure Goods during shipping.

**8. Security Interest.** As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing and authorizes Seller to file UCC financing statements in the applicable jurisdiction. The security interest granted under this provision constitutes a purchase money security interest under the California Uniform Commercial Code.

**9. Inspection and Rejection of Nonconforming Goods.** Buyer shall inspect the Goods within 10 business days after receipt ("**Inspection Period**"). Buyer shall be deemed to have accepted the Goods unless Buyer notifies Seller in writing of any Nonconforming Goods during the Inspection Period and Buyer furnishes such written evidence or other documentation as reasonably required by Seller. "**Nonconforming Goods**" means only the following: (i) Good shipped is different than identified in Buyer's purchase order accepted by Seller's Order Confirmation; or (ii) Good's label or packaging incorrectly identifies its contents. If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in Seller's sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at Seller's expense and risk of loss, the Nonconforming Goods to a location specified by Seller. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Seller's expense and risk of loss, the replaced Goods to the Delivery Point. (c) Buyer acknowledges and agrees that the remedies set forth in this **Section 9** are its exclusive remedies for the delivery of Nonconforming Goods. Except as provided under this **Section 9**, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under these Terms to Seller.

**10. Limited Warranty.** (a) Seller warrants to Buyer that for a period of 12 months from the date of delivery ("**Warranty Period**"), such Goods are free from material defects in material and workmanship ("**Limited Warranty**"). (b) **EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH IN SECTION 10(a), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, AND DISCLAIMS ANY SUCH WARRANTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY (i) WARRANTY OF MERCHANTABILITY; (ii) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (iii) IF GOODS WERE MANUFACTURED TO BUYER'S SPECIFICATIONS WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.** (c) No warranty is given for any goods, subcomponents and materials not manufactured by Seller or its Affiliates, and Seller shall not be liable for any defects contained in such goods, components and materials. Accessories, subcomponents or equipment furnished by Seller, but manufactured by others (excepting Affiliates of Seller), shall carry whatever warranty the manufacturer has conveyed to Seller and which can be assigned to the Buyer. (d) Seller shall not be liable for a breach of the Limited Warranty unless Buyer gives written notice of the defect, reasonably described, to Seller no later than five (5) business days after Buyer discovers or ought to have discovered the defect; Seller is given a reasonable opportunity after receiving the notice to examine such Goods; and Seller reasonably verifies Buyer's claim that the Goods are defective. (e) Seller shall not be liable for a breach of the Limited Warranty if Goods are damaged by improper storage, installation or maintenance, non-compliance with fitting guidelines or failure to follow Seller's installation instructions; by ordinary wear and tear, or if Buyer cannot prove any deficiencies in the Goods originated in bad material or poor workmanship. (f) The Warranty Period shall expire immediately if Buyer or a third party has modified or repaired (or made an attempt to repair) the Goods. (g) Subject to **Sections 9(d)-(f)** above, with respect to any defective Goods during the Warranty Period, Seller shall at its option replace repair or replace defective Goods by tendering the same Delivery Location. (h) **THE REMEDIES SET FORTH IN THIS SECTION 10 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN THIS SECTION 9.**

**11. Limitation of Liability.** (a) **IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.** (b) **IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS**

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**PAID TO SELLER FOR THE GOODS SOLD HEREUNDER.** If a court of competent jurisdiction determines that the remedy provided in **Section 10** fails its essential purpose then the exclusive remedy of Buyer for the breach of warranty shall be to return the Goods to the Buyer, freight prepaid, for a refund of the purchase price. (c) The limitation of liability set forth in this **Section 10** shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Seller's acts or omissions.

**12. Time Limitation on Claims** Any claim by Buyer for breach of any warranty against Seller must be filed within one (1) year of the date when Buyer knew or should have known of the alleged breach of the Warranty. Claims not filled within this one (1) year period are barred. This provision shall not extend any statute of limitation period. Instead, this provision is intended to shorten the statute of limitations in most instances.

**13. Waiver of Insured Claims and Subrogation**. Any loss that is covered by property, fire, earthquake, boiler insurance, or the like, Buyer and Seller, for themselves, for all other insured under any such insurance policy, and for Seller and Buyer's insurers under any such insurance policy, hereby waive any claim against each other for any loss by fire, flood, explosion, mechanical breakdown or otherwise. Both Buyer and Seller, to the fullest extent permitted by each such policy, waive any right of subrogation against each other and against Buyer and Seller's respective employees, agents, officers, affiliates, suppliers, subcontractors and insurers.

**14. Specifications of Goods**. All specifications, drawings and descriptions of Goods set forth in catalogs proposals or other materials furnished by Seller to Buyer are subject to modification by Seller and are not binding unless Seller so states to Buyer in writing. Seller reserves the right to modify, improve or discontinue Goods, or to change specifications, at any time, without notice.

**15. Intellectual Property Rights**. Seller shall retain the ownership and copyright of all documentation delivered to or shared with Buyer, including but not limited to all illustrations, drawings, sketches and collections, which are to be promptly returned to Seller upon request and all copies that cannot be returned shall be destroyed and, upon request, Buyer shall certify such destruction in writing. Seller shall also retain all intellectual property rights relating to forms, prototypes and technical solutions relating to any Goods sold by Seller to Buyer. To the extent any such intellectual property rights do not vest in Seller, Buyer shall immediately assign all such rights to Seller. Buyer shall not make or have made Goods by reverse engineering or otherwise using Seller Goods or parts thereof as a prototype or model. This prohibition includes the manufacture of such reverse engineered Goods, whether independently or with or through an agent or a third party, as well as the direct or indirect participation in the distribution of such reverse engineered Goods. **ANY VIOLATION OF ANY PART OF THIS SECTION 15 SHALL BE A WILLFUL VIOLATION OF COPYRIGHT LAWS** that may entitle Seller to collect from Buyer statutory and other damages as well as expenses, including reasonable attorneys' fees

**16. Compliance with Law**. Buyer shall comply with all applicable laws, regulations and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents and permits that Buyer needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. Buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

**17. Termination**. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against Buyer proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

**18. Waiver**. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in a writing signed by Seller. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**19. Confidential Information**. All non-public, confidential or proprietary information of Seller, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, customer lists, pricing, discounts or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this **Section 19**. This **Section 19** does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Seller on a non-confidential basis from a third party.

**20. Force Majeure**. Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution,

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insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

**21. Assignment.** Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without Seller's prior written consent, not to be unreasonably withheld. Any purported assignment or delegation in violation of this **Section 21** is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement. Seller may assign this Agreement to an affiliated entity in its discretion.

**22. No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

**23. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**24. Indemnification.** Buyer shall indemnify, defend, reimburse and hold Seller and its direct and indirect shareholders, directors, officers, employees, advisors and other agents and representatives harmless from and against any actual or threatened claims, demands, actions, proceeding, damages, losses and liabilities, including attorneys' and other professionals' fees and expenses incurred in connection therewith, which arise as a result of or in connection with (i) any breach or violation of, or default under, any provision of this Agreement by Buyer, or (ii) any negligent, reckless or intentional action or omission of Buyer, or (iii) if the Goods were manufactured pursuant to Buyer's specifications, any claim (y) that the Goods infringe upon the proprietary or other rights of any third party (except as may have been caused by a modification by Seller) and (z) loss or damage resulting from the Goods and the use thereof.

**25. Governing Law.** This Agreement, its construction, and all matters arising therefrom or relating to this Agreement shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of California. The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.

**26. Dispute Resolution.** (a) In the event of any controversy or claim arising out of or relating to this Agreement, or a breach

thereof, with the exception of the collection of unpaid funds, the parties hereto shall first attempt to settle the dispute by mediation. If settlement is not reached within sixty days after service of a written demand for mediation, any unresolved controversy or claim for monetary damages in excess of \$50,000 shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. (b) Any other legal suit, injunction, action or proceeding arising out of or relating to this Agreement shall be instituted in the federal courts of the United States of America or the courts located in, or exercising jurisdiction over the State, city and county where the principal place of business of Seller is located. (b) **BUYER HEREBY IRREVOCABLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY TRANSACTION HEREUNDER.** (c) In connection with any controversy hereunder, each party shall be responsible for its attorneys' fees and disbursements and all court and related costs and expenses.

**27. Notices.** All notices, request, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Order Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier, United States Mail, postage prepaid. Except as otherwise provided in this Agreement, a Notice is effective only (a) upon verified receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this **Section 27**.

**28. Amendment and Modification.** These Terms may only be amended or modified in a writing that specifically sets forth that said writing amends these Terms and is signed by an authorized representative of each party.

**29. Headings.** The captions and headings in this Agreement are inserted solely for convenience and ease of reference only and shall not constitute any part of this Agreement, or have any effect on its interpretation or construction.

**30. Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

**31. Survival.** Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Order including, but not limited to, the following provisions: Compliance with Laws, Confidentiality, Governing Law, Submission to Jurisdiction and Survival.